

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TRANSTAR INDUSTRIES, LLC,

Plaintiff,

vs.

TIM LUNDQUIST, et al.,

Defendants.

The Videoconference Deposition of
TIM LUNDQUIST, taken pursuant to Notice of
Taking Deposition, taken before Laurie A.
Kjelden, a Notary Public in and for the
County of Ramsey, State of Minnesota, on the
17th day of March, 2021, via Zoom,
commencing at approximately 8:00 a.m.
Central, 9:00 a.m. Eastern.

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1 APPEARANCES:

2

ON BEHALF OF THE PLAINTIFF VIA ZOOM:

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ALSO PRESENT VIA ZOOM:

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DEPOSITION OF TIM LUNDQUIST

18

19 Examination:

Page

20 Mr. Campbell

3

21 Exhibits:

Page

22 1 Account Application

27

23 2 Ledger

56

24

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1 P R O C E E D I N G S

2 (Witness sworn)

3 TIM LUNDQUIST

4 called as a witness, being first duly sworn,

5 was examined and testified as follows:

6 * * *

7 EXAMINATION

8 * * *

9 BY MR. CAMPBELL:

10 Q. Okay. Mr. Lundquist, could you please state
11 your name for the record?

12 A. Timothy Lundquist.

13 Q. Could you spell Lundquist for the record?

14 A. L-U-N-D-Q-U-I-S-T.

15 Q. And what is your current business address?

16 A. It is 875 Corporate Drive, Jordan, Minnesota
17 55352.

18 Q. Okay. Have you ever been through a
19 deposition before?

20 A. No.

21 Q. Okay. I'm sure your counsel has given you
22 instructions. I will give you mine.

23 First of all, if -- as you're
24 doing, if you wait to answer until I'm done
25 with my question, it will be a lot easier

1 for of the court reporter.

2 Do you understand that?

3 A. Yes.

4 Q. Secondly, as you're doing, if you just
5 answer verbally. Especially online, we
6 don't always -- if you're just nodding, we
7 may not even see you on the screen. So if
8 you could say yes or no or give us a verbal
9 answer. Okay?

10 A. Okay.

11 Q. If you need a break at any point, if you
12 need to talk to your counsel or you just
13 need to get a cup of coffee, just speak up.
14 Okay?

15 A. Okay.

16 Q. I would prefer that you answer my question
17 before taking a break but if you think you
18 need to talk to your counsel before
19 answering, we can take a break and give you
20 that opportunity but we need to state that
21 on the record. Okay?

22 A. Okay.

23 Q. And if you need any explanation for my
24 question, if you need me to repeat anything,
25 if you don't understand something, just

1 speak up. Okay?

2 A. Yes.

3 Q. Okay. So are you on any medication that
4 could impact your ability to testify
5 truthfully here?

6 A. No.

7 Q. Let me ask you a little bit about your
8 business.

9 Where do you work?

10 A. Dynotec Industries.

11 Q. And do you -- how are you paid by Dynotec?

12 A. I'm a salary employee.

13 Q. So you get paid W-2 wages?

14 A. Correct.

15 Q. How many employees do you have today?

16 A. I don't know. I would have to count. I
17 think 20 exact today.

18 Q. 20 employees today. Okay.

19 Is your wife an employee?

20 A. She is.

21 Q. What's her name?

22 A. Jody, J-O-D-Y, Lundquist.

23 Q. What is her position?

24 A. She is like an office manager, does accounts
25 receivable, payable.

1 Q. So Dynotec is in business today?

2 A. Correct. Yes.

3 Q. Okay. Does Dynotec have any other -- tell
4 me this: What is Dynotec's business?

5 A. Remanufacturing automatic transmissions.

6 Q. Okay. And tell us what -- tell us that
7 process in simple terms, Mr. Lundquist, on
8 remanufacturing automatic transmissions.

9 A. We take what we would call a core
10 transmission, a bad or failed transmission,
11 disassemble it, renew the internals, test it
12 and then sell it as a renewed product.

13 Q. Okay. And what are, like, the primary
14 customer base? What's primary customer base
15 today?

16 A. General repair facilities, salvage yards,
17 dealer network, like new car dealer.

18 Q. Okay. Do you do business with Transtar
19 today?

20 A. No.

21 Q. When did that end?

22 A. Approximately early July 2020.

23 Q. Why did it end?

24 A. Unsettled payments.

25 Q. Okay. And as to Transtar, how long was

1 Dynotec doing business with Transtar?

2 A. I don't remember the date on the
3 application, but I think it was 2007.

4 Q. Going off of -- and we'll show it to you
5 later.

6 But are you going off of that
7 account application? Is that what you're
8 basing it on?

9 A. Yes.

10 Q. Did the relationships start with that
11 account application being executed?

12 A. No. I had bought from them before that.
13 That was -- that was when Dynotec was
14 starting to purchase at that point.

15 Q. When you say "at that point," when you
16 signed that account application?

17 A. No. We had been buying before that. I just
18 don't know the timeline.

19 Q. Okay. When you were buying before that, was
20 it -- you would come in and actually pay or
21 charge on delivery?

22 A. Yes.

23 Q. Okay. So you would come in and buy whatever
24 parts you needed in order to utilize those
25 in your remanufactured automatic

1 transmissions?

2 A. Yes.

3 Q. Now, on the Transtar relationship, just so I
4 understand it in simple terms, on the one
5 hand, Dynotec would purchase transmission
6 parts from Transtar; is that right?

7 A. Say that again, please.

8 Q. On the one hand, Dynotec was a customer who
9 would purchase the products that Transtar
10 sells to its customers, right?

11 A. Yes.

12 Q. What type of products would Dynotec
13 typically purchase from, let's say, 2009
14 through 2020?

15 A. That's a really broad question. Just any --
16 any of their product line that would benefit
17 us to rebuild a transmission.

18 Q. Okay. So that's one piece of the
19 relationship. The other piece was Transtar
20 would actually purchase finished products
21 from Dynotec.

22 Is that a fair statement?

23 A. Correct.

24 Q. When they purchased those finished products,
25 is there a core charge? What is that?

1 A. There is a charge for the finished product,
2 and a charge for the -- what would be the
3 core as a returned product.

4 Q. Okay. And explain that to somebody who
5 doesn't understand transmissions.

6 A. When we're rebuilding a transmission, you
7 obviously need to start with a core to
8 create a renewed product. So when you send
9 that product out, you need to have that core
10 back to start the cycle over again.

11 Q. Okay. What is the typical charge, the core
12 charge?

13 A. You know, I -- that's a tough one to answer
14 because it's low to high as far as pricing
15 goes. So I mean -- I don't know. I would
16 have to look it up to give you an honest
17 answer.

18 Q. What in general is it based upon?

19 I mean, when you say, here's a
20 core charge when you're selling a
21 remanufactured automatic transmission, what
22 is that core charge based upon?

23 A. Well, one would be whatever you were able to
24 purchase that core for, and then generally,
25 you know, you would add some value to it so

1 that it gets returned. A lot of times they
2 won't return the core if the core price
3 isn't high enough.

4 Q. So explain how it would work. Let's say
5 just a customer -- let's say I'm at Bob's
6 transmission and I'm doing -- you know, and
7 I repair transmissions and other auto
8 problems for my customers. I'm in a corner
9 of Minnesota. Okay?

10 A. Yup.

11 Q. And I come to you, and I say, hey, Dynotec,
12 I need a remanufactured automatic
13 transmission for -- pick a car -- Ford
14 Escort for 1989. Whatever it may be.

15 So you have it, you're going to
16 sell it to me, number one, right?

17 A. Yes.

18 Q. And I'm going to go pay a certain price for
19 that transmission?

20 A. Yes.

21 Q. And then you're going to add a core charge
22 to that?

23 A. Yes.

24 Q. Okay. Now, what do I do? If I'm Bob's
25 Transmission, I go and I put the -- when I

1 purchase it from Dynotec, I put it into my
2 customer's car.

3 What do I return to Dynotec?

4 A. You return the transmission that came out of
5 the vehicle.

6 Q. Okay. So then I'm getting into the Ford
7 Escort. In my example, I'm replacing the
8 transmission, and whatever I take out of
9 that car I bring back to you, then I'm
10 supposed to get that core charge back?

11 A. Correct.

12 Q. And when I bring it back, it's a used
13 transmission that wasn't working.

14 What do I -- what obligations do
15 I have in order to get that core charge
16 back?

17 A. The first is a visual. Is it complete? And
18 is it not broken? Otherwise, there would be
19 charges of some sort for damaged product,
20 sometimes up to the full value.

21 Q. And who makes that decision?

22 A. It would be management here when it was --
23 you know, the shipping manager or the shop
24 foreman, you know, depending on who sees it
25 first.

1 Q. So I could bring back the core, the used
2 transmission, in other words, right? The
3 used transmission for that Escort I'm
4 bringing back?

5 A. Yes.

6 Q. And then Dynotec could look at it and say,
7 we're not giving you all or some of that
8 core charge back?

9 A. Yes.

10 Q. And if I never bring back the core, I'm
11 never getting that money back?

12 A. Yes.

13 Q. What does Dynotec do with the core charge --
14 when I'm Bob's Transmission and I pay, where
15 is that core charge kept?

16 Is it just kept in your general
17 books, or is it kept in some segregated
18 account?

19 A. I don't know at this point. I couldn't -- I
20 don't handle that paperwork side, so I
21 couldn't honestly answer where, but, you
22 know, that -- yes.

23 Q. If somebody doesn't bring back the core, is
24 that considered income to Dynotec?

25 A. I don't know how that is handled on that

1 paperwork side.

2 Q. If I bring back the core and you reject it,
3 so to say, you say that it's damaged, do you
4 keep the core, or do you return it to me?

5 A. That would depend on the customer.

6 Q. Okay. And then do you -- does Dynotec
7 consider that -- if you were to reject the
8 core, does Dynotec consider the core charge
9 as income?

10 A. I would say no, because the core -- we'd
11 have to replenish the core, so it would have
12 to be bought again. So the money would be
13 used to repurchase core.

14 Q. Okay. So Transtar was purchasing
15 remanufactured automatic transmissions from
16 Dynotec, and then they would be charged a
17 core charge based on the transmission that
18 was purchased?

19 A. Yes.

20 Q. Okay. So there was money -- and during this
21 relationship, there was monies going both
22 ways, at least supposed to be?

23 When Dynotec purchased product
24 from Transtar, there would be a payment to
25 Transtar, right?

1 A. Yes.

2 Q. And vice versa. If Transtar said, we need
3 some remanufactured transmissions, Dynotec,
4 here's the ones we need, they would pay for
5 those remanufactured transmissions, number
6 one, right?

7 A. Yes, they're supposed to.

8 Q. With an extra core charge?

9 A. Yes.

10 Q. Was there any other -- I guess, any other
11 flows of money between the two entities
12 during this 10-plus year relationship?

13 A. No.

14 Q. Okay. Okay. What do your employees --
15 aside from you and your wife, what do the
16 employees do at Dynotec?

17 A. I mean, it obviously depends on the position
18 that they hold, whether it's shipping,
19 testing, sales, or the actual handling of
20 the rebuilding of the transmission.

21 Q. Okay. Now let me ask you this: Where does
22 Dynotec typically -- where is your customer
23 base? Is it Minnesota? Is it nationwide?

24 A. Our strongest base is in Minnesota.

25 Q. Okay.

1 A. We do ship some stuff nationwide, but a very
2 small portion.

3 Q. What percentage of your business is
4 Minnesota-based?

5 A. 80-plus percent without actually looking at
6 numbers.

7 Q. Okay. Okay. Now, what is the typical --
8 what's the annual revenue for Dynotec in a
9 typical year?

10 A. I couldn't answer that right now. I don't
11 know. I would -- I would have to look it
12 up.

13 Q. You don't have even a ballpark of what your
14 annual revenue is?

15 A. I don't at the moment.

16 Q. You don't at the moment.

17 You can't tell me for any of the
18 years what your sales were?

19 A. No. I don't know the numbers right now.

20 Q. Do you have a projection for this year's
21 sales?

22 A. I don't.

23 Q. You don't. Okay.

24 So you have no idea on what your
25 revenue would be.

1 Who would have that, your wife?

2 A. Yes.

3 Q. So do you partake in the books at all? Are
4 you at all involved in them?

5 A. I am very little involved to almost nothing.

6 Q. Okay. And so -- so -- and let me ask you:
7 Who is reviewing the core when it comes in
8 to determine whether the core -- all or some
9 of the core charge should be returned?

10 A. Currently?

11 Q. Currently first.

12 A. Are you looking for a name or...

13 Q. I mean, is it you or your wife, or who in
14 general? Is this an employee or -- who does
15 this?

16 A. It would be an employee.

17 Q. Has that always been the case over the last
18 10 years?

19 A. Yes.

20 Q. What position? Is there a title of an
21 employee who would review the cores?

22 A. Generally it would be a shipping manager.
23 We don't currently have one.

24 Q. Okay. Who is doing it today? Who would do
25 the core?

1 A. Our shop foreman would review it today.

2 Q. And has Dynotec in the last five years had
3 any other the customers -- customer disputes
4 over core charges?

5 A. No.

6 Q. Is Dynotec involved in any other civil
7 litigation other than the Transtar
8 litigation?

9 A. No.

10 Q. Are you involved in any other litigation
11 other than -- any other civil litigation
12 other than the Transtar litigation?

13 A. No.

14 Q. What entity has taken over Transtar's role
15 as to selling transmission parts to Dynotec?

16 A. Can you -- can you ask me again?

17 Q. Presumably in 2020 or in 2019, if you needed
18 parts for your remanufactured transmission
19 beyond the core, you would go to Transtar
20 and say, Transtar, we need X-Y and Z parts,
21 right?

22 A. Yes.

23 Q. Who do you go to today? Who's taken over
24 that role?

25 A. Multiple vendors.

1 Q. Can you name any of them?

2 A. We're buying direct from the suppliers now,
3 like TransGo, Raybestos.

4 Q. Okay. Are you buying on credit or charge on
5 delivery?

6 A. Both.

7 Q. What entities do you have credit with?

8 A. I don't know at the moment without looking
9 it up to tell you.

10 Q. Okay. And on the credit, has -- well, let
11 me ask you just so the record is clear: Is
12 Dynotec also involved in some tax disputes
13 with the IRS?

14 MR. KAMPMAN: Objection. Seeks
15 disclosure of private and sensitive
16 information.

17 But, Tim, you can go ahead and
18 answer this particular question.

19 THE WITNESS: Yes, Dynotec is
20 involved in some tax litigation.

21 BY MR. CAMPBELL:

22 Q. Okay. And is the IRS looking at you
23 personally for tax liability, as well?

24 MR. KAMPMAN: Objection.
25 Disclosure of private and sensitive

1 information. I'm going to instruct him not
2 to answer that question.

3 MR. CAMPBELL: You're telling him
4 he's not allowed to answer that question?

5 MR. KAMPMAN: Correct.

6 MR. CAMPBELL: And what basis are
7 you saying that?

8 MR. KAMPMAN: Private and
9 sensitive confidential information.

10 MR. CAMPBELL: You realize he's
11 an individual defendant who has personally
12 guaranteed this debt?

13 MR. KAMPMAN: I do.

14 MR. CAMPBELL: Okay. So I think
15 we're going to have to court on that. So
16 why don't we -- because I'm not going to go
17 through this deposition and come back a
18 second day as to -- you're not going to let
19 him answer anything as to the IRS?

20 MR. KAMPMAN: Correct.

21 MR. CAMPBELL: Okay. Well, then,
22 let's call the court. Why don't we take a
23 break, and we'll call the court because,
24 Brian, we're not going to go through this
25 deposition and come back a second time. You

1 guys just want to delay and just play the
2 games and -- you guys are getting your
3 money, so you can delay and keep this thing
4 going, but we've got to call the court,
5 because he's an individual defendant, and
6 we're not going to let it go forward with a
7 personal, private information. He's an
8 individual defendant.

9 MR. KAMPMAN: Okay. Then we can
10 call the court.

11 MR. CAMPBELL: Okay. I will --
12 why don't we take a break. I'll e-mail the
13 court, and we'll see if we can get on a call
14 with the court. Thanks a lot. I will let
15 you know.

16 We'll be back on here -- and just
17 so I'm clear, what is exactly -- you're just
18 saying it's personal. Say that again.

19 MR. KAMPMAN: Private,
20 confidential, and sensitive information that
21 has no relevance to this case.

22 MR. CAMPBELL: Okay. Okay. We
23 will jump on with the court. We'll take a
24 break here at 9:23. And, Brian, I will
25 e-mail, and we'll jump on with the court.

1 Thanks a lot. We'll come back hopefully in
2 the next 10 minutes with the court on.

3 MR. KAMPMAN: Okay.

4 (At this time a recess was held.)

5 BY MR. CAMPBELL:

6 Q. Mr. Lundquist, let me ask you about the
7 Dynotec IRS proceeding.

8 What years are at issue in the
9 Dynotec IRS proceeding?

10 A. 2013 through 2017, if I recall correctly.

11 Q. Okay. Is Dynotec challenging the tax
12 liabilities, or what is the petition -- to
13 your knowledge, what is the petition doing
14 in the tax court?

15 A. I don't know at this point.

16 Q. You don't know.

17 What is the issue with the 2013
18 to 2017 tax returns?

19 A. Payroll tax liabilities.

20 Q. Anything else?

21 A. No.

22 Q. When you say "payroll tax liabilities," what
23 do you mean?

24 A. Unpaid payroll taxes.

25 Q. Were you classifying employees as

1 independent contractors?

2 A. No.

3 Q. So they were employees, and the IRS is
4 claiming that you did not -- you withheld
5 federal taxes from the employee paychecks
6 but did not pay that to the federal
7 government?

8 MR. KAMPMAN: Objection.

9 Leading.

10 Go ahead and answer, Tim.

11 THE WITNESS: Yes.

12 BY MR. CAMPBELL:

13 Q. Okay. What amount is at issue for the --
14 not the penalties, but just the tax -- the
15 income tax -- federal income tax from 2013
16 to 2017?

17 Do you know the ballpark for
18 what's at issue?

19 A. I think it's right about 1.5 million.

20 Q. That is the amount of payroll taxes that the
21 IRS claims was not paid to the federal
22 government?

23 A. Yes.

24 Q. Okay. Is there penalties on top of that?

25 A. Yes.

1 Q. Okay. What are the penalties on top?

2 A. I don't know.

3 Q. What is Dynotec's defense to that?

4 Did Dynotec pay the income tax to
5 the federal government?

6 MR. KAMPMAN: Objection. That's
7 privileged information as to what the
8 defense is.

9 BY MR. CAMPBELL:

10 Q. Let me ask you this: Mr. Lundquist, did
11 Dynotec pay the income taxes from 2013 to
12 2017 to the federal government on behalf of
13 its employees?

14 A. No.

15 Q. Why is that?

16 A. Short on funds, trying to keep the business
17 running.

18 Q. Has Dynotec disclosed the IRS, I'll call it,
19 dispute or litigation to any of its vendors?

20 A. No.

21 Q. Why not?

22 A. Trying to solve the tax liabilities and keep
23 the company running at the same time.

24 Q. Okay. If an entity was giving credit to
25 Dynotec, don't you think that they should

1 understand that issue as to the fact that
2 there is more than \$1.5 million at issue?

3 MR. KAMPMAN: Objection.

4 Go ahead and answer, Tim.

5 THE WITNESS: Yes. Yes.

6 BY MR. CAMPBELL:

7 Q. Why has Dynotec not disclosed it then?

8 A. Like I said just a minute ago, we were
9 trying to solve that and continue business
10 and at that point was not looking at it to
11 be a problem to move forward for the future.

12 Q. Well, it's not solved to date, right?

13 A. It is not.

14 Q. Does Dynotec have any plans to notify its
15 vendors of the tax liability?

16 MR. KAMPMAN: Objection.

17 Go ahead and answer, Tim.

18 THE WITNESS: Not at this point.

19 BY MR. CAMPBELL:

20 Q. Okay. Did -- and I assume that when we talk
21 about vendors -- did you or anybody else on
22 behalf of Dynotec disclose this issue to
23 Transtar during your relationship with
24 Transtar?

25 A. No.

1 Q. Why not?

2 A. Same thing I said a few minutes ago, was
3 trying to get it solved and moved forward
4 with doing business.

5 Q. When was the first time that the IRS raised
6 an issue with respect to payroll taxes with
7 Dynotec? What year?

8 A. I don't remember.

9 Q. Was it 2018, or was it prior to?

10 A. I don't remember.

11 Q. And is Dynotec paying its payroll taxes
12 today?

13 A. Yes.

14 Q. Does Dynotec have any other -- you told me
15 there's no litigation.

16 Does Dynotec have any other debts
17 in dispute, whether they're valid or not?

18 Is there any other informal
19 disputes going on with either vendors,
20 banks, or any other third parties?

21 MR. KAMPMAN: Objection.

22 Go ahead and answer, Tim.

23 THE WITNESS: No.

24 BY MR. CAMPBELL:

25 Q. Did Dynotec get a PPP loan?

1 A. Yes.

2 Q. Was the PPP loan available even with a
3 federal tax liability outstanding?

4 A. Yes.

5 Q. How many rounds of PPP loans did Dynotec
6 get?

7 MR. KAMPMAN: Objection.

8 Go ahead and answer.

9 THE WITNESS: Two.

10 BY MR. CAMPBELL:

11 Q. What was the total amount of the PPP loans?

12 MR. KAMPMAN: Objection.

13 Go ahead and answer, Tim.

14 THE WITNESS: I don't -- I don't
15 know right now. It would have to be looked
16 up.

17 BY MR. CAMPBELL:

18 Q. Do you have a ballpark?

19 A. I don't.

20 Q. You don't.

21 Was it the over a million
22 dollars?

23 A. No.

24 MR. CAMPBELL: Okay. Let me see
25 what exhibit we will put up.

1 Meagan, could you put up
2 Exhibit 1?

3 (Lundquist Deposition Exhibit
4 Number 1 was marked for identification.)

5 MR. CAMPBELL: Okay. And why
6 don't we, first of all, go to Page 2 of
7 Exhibit 1, Meagan. And if we could blow up
8 the bottom, the small print and the
9 signature there. Okay.

10 BY MR. CAMPBELL:

11 Q. Mr. Lundquist, do you recognize that
12 signature?

13 A. Yes.

14 Q. Is that your signature?

15 A. Yes.

16 MR. CAMPBELL: And, Meagan, could
17 you make that a little bigger? Maybe it's
18 there. I can't see the date because of my
19 screen on the right. Could you move it over
20 to the left a little bit just so I can see
21 the date?

22 BY MR. CAMPBELL:

23 Q. Do you see the date, Mr. Lundquist?

24 A. Re.

25 Q. And it's dated 3-26-2009?

1 A. Yes.

2 Q. And it's your recollection that Dynotec was
3 doing business with Transtar prior to March
4 26, 2009?

5 A. Yes.

6 Q. What is this document that you signed?

7 A. An account application.

8 Q. Okay. And why -- what was your
9 understanding of why you signed it on
10 behalf -- well, first of all, did you sign
11 this on behalf of Dynotec yourself?

12 Who did you sign it on behalf of?

13 A. Looking back now, I don't remember, but
14 anytime that we do an application like this
15 in this industry, it would be on behalf of
16 Dynotec.

17 Q. Okay. And I take it that you do, in the
18 ordinary course of business, sign these
19 types of documents on behalf of Dynotec?

20 A. Yes.

21 Q. Okay.

22 MR. CAMPBELL: And then let's go
23 to Page 1. Again, Meagan, if we could go to
24 Page 1, we'll come back. And let's just go
25 through this. If you could -- first section

1 up top from account application through the
2 first section, blow it up just so we can go
3 through some of that.

4 BY MR. CAMPBELL:

5 Q. So first of all, it's been marked as a
6 credit application. Do you see that,
7 Mr. Lundquist?

8 A. Yes.

9 Q. Who marked that? Who filled this in? Is
10 this you or Transtar?

11 A. I would assume Transtar did. It is not my
12 writing.

13 Q. It's not your writing. Okay.

14 And what is COD?

15 A. Cash on delivery.

16 Q. Okay. And was Dynotec cash on delivery
17 prior to the execution of this account
18 application?

19 A. As far as I remember.

20 Q. Okay. And did Dynotec move to a non-cash on
21 delivery account after executing this
22 account application?

23 A. I would assume, yes. I don't know the
24 timing of it.

25 Q. Okay. You would assume yes because, as of

1 the timing, you're saying, what, your wife
2 handled that?

3 A. Correct.

4 MR. CAMPBELL: Okay. Let's go to
5 the next section. Okay.

6 BY MR. CAMPBELL:

7 Q. So this -- this started here -- this says
8 two years at this location.

9 Was Dynotec in business just two
10 years prior to this, or what -- explain that
11 to me.

12 A. Yes, just two years.

13 Q. And how many employees do you think Dynotec
14 had at this time when you signed this
15 account application?

16 A. I don't recall, but probably two to three
17 max.

18 Q. Okay. So just a new business starting out?

19 A. Correct.

20 Q. Okay.

21 MR. CAMPBELL: Let's go to the
22 next section, Meagan.

23 BY MR. CAMPBELL:

24 Q. So this is information of partners,
25 officers.

1 Were you president at the time?

2 A. Yes.

3 Q. Okay. Is this your home address at the
4 time, or what is this address?

5 A. That was my home address, yes.

6 Q. Okay. Okay.

7 MR. CAMPBELL: Let's move on,
8 Meagan, to the next section, the last two,
9 just so we understand this.

10 BY MR. CAMPBELL:

11 Q. So you were leasing at the time. Do you
12 still lease that office space?

13 A. We do have that facility, yes.

14 Q. Do you lease or purchase -- do you own or
15 lease it?

16 A. Lease it.

17 Q. You lease it. Okay.

18 A. Yeah.

19 MR. CAMPBELL: Let's go to the
20 next page, Meagan. And why don't you just
21 blow up all those top sections until we get
22 to the -- yes, all those.

23 BY MR. CAMPBELL:

24 Q. So let's go through. So you gave some
25 banking information. Was that accurate at

1 the time?

2 A. Yes.

3 Q. Okay. And then you had to give some of
4 the -- some references, I guess, to, what,
5 verify that you were a going concern and
6 that you could make payments?

7 A. I'm assuming, yes.

8 Q. Okay. And who is -- what's this NAPA -- who
9 is in Nick? What's this NAPA Chaska? Is
10 that one of your customers?

11 A. He was a part supplier at the time.

12 Q. NAPA Jordan is the same?

13 A. Correct.

14 Q. And then Don Robinson with Transtar, what
15 was that relationship?

16 A. He was our salesperson at Transtar.

17 Q. That you were working with prior to this?

18 A. Yes.

19 MR. CAMPBELL: Okay. And let's
20 go, Meagan, and blow up that final section
21 there. We don't need the bottom, just to
22 the signature line so we can see it easier
23 as to -- no, no, no. The whole box except
24 for the bottom section with those phone
25 numbers. Yeah.

1 BY MR. CAMPBELL:

2 Q. So let's go through this and verify.

3 Mr. Lundquist, how do you typically -- do
4 you read these things before you sign, or
5 what's your typical process?

6 A. Yes, for the most part.

7 Q. Okay. You read?

8 A. Yeah.

9 Q. Okay. Did you read this before signing?

10 And I know you probably don't
11 have personal recollection, but would you
12 have -- what would be your belief as to
13 this?

14 MR. KAMPMAN: Objection.

15 Go ahead and answer, Tim.

16 THE WITNESS: I'm sure I would
17 have skimmed through it before signing it,
18 yes.

19 BY MR. CAMPBELL:

20 Q. Okay. Did you maintain a copy of this
21 document?

22 A. I don't know.

23 Q. You don't know. Okay.

24 Do you have a copy of it with the
25 business today, aside from this lawsuit?

1 A. I don't know.

2 Q. Okay. And that final bullet point above
3 your signature, do you recall reading that
4 about you're the principal and shareholder
5 of Dynotec?

6 A. I don't remember reading it at the time, but
7 I have read it now, yes.

8 Q. Okay. Was that an accurate statement at the
9 time?

10 A. Yes.

11 Q. Is it an accurate statement today?

12 A. Yes.

13 Q. Okay. And is there anything that you don't
14 understand in that paragraph about the --
15 your responsibilities?

16 MR. KAMPMAN: Objection.

17 Document speaks for itself.

18 Go ahead and answer, Tim.

19 THE WITNESS: I mean, I would
20 have to read it in a clearer copy than it is
21 at the moment, but --

22 MR. CAMPBELL: Meagan, that final
23 bullet point where it says "The undersigned
24 principal and shareholder" so we can all see
25 it and go through it, just make that section

1 so we can see that. Okay.

2 THE TECHNICIAN: It's coming out
3 a little bit blurry when I blow it up, so
4 I'm just trying to make sure it's clear for
5 you all.

6 MR. CAMPBELL: I think that's as
7 good as we're going to get right now.

8 BY MR. CAMPBELL:

9 Q. So Mr. Lundquist, I'm going to go through
10 it. It starts with "The undersigned, the
11 principal and shareholders, of said
12 company."

13 That was accurate, right?

14 Mr. Lundquist, was that accurate at the
15 time?

16 A. Yes.

17 Q. Okay. And then it says, "expressly agrees
18 to indemnify and hold harmless Transtar
19 Industries, Inc., its affiliates,
20 subsidiaries, successors and assigns."

21 Did I read that right?

22 A. Yes.

23 Q. "Because of extension of credit as contained
24 in this application."

25 Did I read that right?

1 A. Yes.

2 Q. "And in the event the undersigned company
3 fails or refuses to pay any amount due to
4 Transtar."

5 Did I read that right?

6 A. Yes.

7 Q. "The undersigned principals will pay said
8 amount in full upon demand of Transtar."

9 Did I read that right?

10 A. Yes.

11 Q. "Including all interest, finance charges and
12 attorney's fees in the event it is necessary
13 for Transtar to employ an attorney or other
14 third-party firm to collect same."

15 Did I read that right?

16 MR. KAMPMAN: Objection.

17 Go ahead and answer, Tim.

18 THE WITNESS: Yes.

19 BY MR. CAMPBELL:

20 Q. "Together with the cost of collection. This
21 application replaces and supercedes any
22 previous credit applications with Transtar."

23 Did I read that right?

24 MR. KAMPMAN: Objection.

25 Go ahead and answer, Tim.

1 THE WITNESS: Yes.

2 BY MR. CAMPBELL:

3 Q. "Its predecessors, affiliates and
4 subsidiaries. This is to certify that I am
5 a principal of this business and personally
6 guarantee this account."

7 Did I read the final sentences
8 right?

9 MR. KAMPMAN: Objection.

10 Go ahead and answer, Tim.

11 THE WITNESS: Yes.

12 BY MR. CAMPBELL:

13 Q. So on this, you don't recall reading it.
14 You said, what, you would have skimmed it
15 or -- what do you recall?

16 A. I don't remember now.

17 Q. Okay. Well, let me ask you this -- and I
18 know that you and Dynotec disagree as to the
19 amounts owed.

20 But do you agree that if Dynotec
21 is found to have amounts owed to Transtar,
22 that you personally guaranteed those amounts
23 owed?

24 MR. KAMPMAN: Objection.

25 Go ahead and answer, Tim.

1 THE WITNESS: Yes.

2 MR. CAMPBELL: We could pull out
3 of that exhibit, Meagan.

4 BY MR. CAMPBELL:

5 Q. So after this account application was
6 executed, at that point in time, that is
7 when -- what did -- did business grow after
8 that, Dynotec's business?

9 A. It did grow.

10 Q. Okay. And with respect to the growth of the
11 business, did Dynotec -- do you know or do
12 not know about whether Dynotec was paying
13 COD after the execution of this credit
14 application?

15 A. I don't know.

16 Q. You don't know. Okay.

17 So let me ask you: I saw -- in
18 your document production, I saw that you had
19 included some voice recordings.

20 Do you recall those?

21 A. Yes.

22 Q. Some phone recordings, right?

23 A. Yes.

24 Q. Are those the only phone recordings or
25 recordings that you have -- you being

1 Dynotec has with respect to Transtar?

2 A. Yes.

3 Q. Okay. Were other phone calls or meetings
4 tape recorded?

5 A. No.

6 Q. No. Okay.

7 Why were these two tape recorded?

8 A. We were trying to get the converter warranty
9 problems settled. They had gone on for
10 years without resolution and we wanted to
11 try and get some kind of resolution taken
12 care of on those and we were not getting
13 anywhere. We were getting -- we were
14 getting shuffled around.

15 Q. Did you let Transtar know -- Transtar
16 employees know that you were tape recording
17 these phone calls?

18 A. I did not.

19 Q. Why not?

20 A. Because I wanted to, and I let myself know
21 that I was going to and okayed it.

22 Q. I don't understand. What -- explain that to
23 me.

24 A. I wanted the phone calls recorded so that I
25 knew what was said in regards to the

1 converter warranty problems.

2 Q. My question is -- my question was: Why
3 didn't you let the Transtar employees know
4 that you were tape recording the calls?

5 A. I didn't, because I wanted truthful answers.

6 Q. Wanted truthful answers. Okay.

7 And these calls, it looks to
8 me -- and I don't see the exact dates on
9 them. But they look like they were done in
10 2018.

11 Is that a fair statement?

12 A. Yes.

13 Q. Okay. And at that time, I think from the
14 substance -- but let's just talk about what
15 was going.

16 In 2018, Mr. DeMille -- do you
17 know Tom DeMille?

18 A. Yes.

19 Q. D-E-M-I-L-L-E.

20 So Mr. DeMille approached Dynotec
21 about what Transtar believed amounts were
22 owed to Transtar, right?

23 A. I'm sorry. Can you say that one more time?

24 Q. In 2018, is it a fair statement that
25 Mr. DeMille, on behalf of Transtar,

1 approached Dynotec about amounts that
2 Transtar believed were owed to Transtar?

3 A. Yes.

4 Q. And I think at the time there was two
5 buckets, one of products purchased from
6 Transtar, and two, core charges that were
7 not returned.

8 Is that a fair statement?

9 A. Yes.

10 Q. Okay. And on the voice recordings, I was
11 surprised to hear that -- like on the core
12 charges, it sounded as if -- it didn't
13 sound -- your wife was admitting that there
14 were valid core charges that were submitted
15 and that she was not giving Transtar credit
16 for those, right?

17 MR. KAMPMAN: Objection.

18 Go ahead, Tim.

19 THE WITNESS: Yes. She had
20 produced the credits but had not sent them
21 over to Transtar yet.

22 BY MR. CAMPBELL:

23 Q. Do you think that is appropriate?

24 A. At the moment, yes, it was.

25 Q. It was.

1 Did she ever send the credits
2 out?

3 A. I don't know.

4 Q. Okay. It sounded like she was really in
5 charge of whether those credits would be
6 granted or not.

7 I mean, is this a fair statement,
8 at least in 2018?

9 MR. KAMPMAN: Objection.

10 Go ahead, Tim.

11 THE WITNESS: Yes, she was.

12 BY MR. CAMPBELL:

13 Q. And that she was making the determination
14 whether the core would be credited in full
15 or partial or not, right?

16 MR. KAMPMAN: Objection.

17 Go ahead, Tim.

18 THE WITNESS: She was making the
19 final determination.

20 BY MR. CAMPBELL:

21 Q. The final determination. Okay.

22 And as to that, what was the -- I
23 mean, from my understanding, the total core
24 charges at issue were in excess of \$200,000.

25 Is that a fair statement?

1 A. From the call, yes, at that time. That's
2 what I remember.

3 Q. And then the amount at issue for the
4 purchases of Transtar products was a little
5 over \$700,000 at the time?

6 A. On the call, yes, I think that's what we
7 discussed.

8 Q. And at that time, did Mr. DeMille
9 ultimately, after those two phone calls --
10 and there were other meetings as well,
11 right?

12 A. Yes.

13 Q. I think you guys referenced a barbecue -- a
14 meeting at a barbecue restaurant?

15 A. That was in my conference room prior to that
16 phone call.

17 Q. You guys brought barbecue in and had a lunch
18 meeting?

19 A. Yes.

20 Q. And then you had another phone call as well?

21 A. There was two phone calls total.

22 Q. Two phone calls. Okay.

23 A. That were recorded.

24 Q. Okay. Well, I'm asking you, total in 2018
25 with respect to these amounts owed, you had

1 an in-person meeting, right?

2 A. Yes.

3 Q. Did you have any other in-person meetings
4 other than the barbecue meeting?

5 A. Not that I recall.

6 Q. Okay. And then how many phone calls -- I
7 know you recorded two, but how many phone
8 calls were there about these amounts owed in
9 2018?

10 A. I don't know. It's hard to remember that
11 far back.

12 Q. Do you think there were more than just the
13 two that you recorded?

14 A. Yes.

15 Q. Do you have any idea, was it two more, three
16 more?

17 A. I don't.

18 Q. Okay. And do you recall that Mr. DeMille,
19 on behalf of Transtar, ultimately, I guess,
20 waived or forgave over -- a little over
21 \$100,000 in core charges?

22 A. I don't personally know that that was ever
23 properly credited, so I would say I don't --
24 I don't think so or I don't know that for
25 sure.

1 Q. You don't know that for sure.

2 Was that the verbal discussion,
3 that Mr. DeMille would waive a certain
4 amount of core charges in return for the
5 parties moving forward and -- as business
6 partners?

7 A. Yes.

8 Q. Okay. Certainly, I would think that you and
9 your wife would have double-checked whether
10 those core charges were actually waived by
11 Transtar, right?

12 MR. KAMPMAN: Objection.

13 Go ahead, Tim.

14 THE WITNESS: Yes, I would agree.
15 I don't know at the moment if they were ever
16 exactly applied correctly.

17 BY MR. CAMPBELL:

18 Q. Okay. But the parties at least -- was it
19 ever put in writing, this agreement, as to,
20 hey, Transtar will drop arguments as to a
21 100,000 or so in core charges in return for
22 the parties moving forward with these other
23 amounts owed and doing business together?

24 MR. KAMPMAN: Objection.

25 Tim, go ahead.

1 THE WITNESS: No.

2 BY MR. CAMPBELL:

3 Q. But at the time, that was -- was that the
4 verbal agreement? Was that the agreement
5 that Dynotec and Transtar reached?

6 A. There was never a final agreement that we --
7 that we were ready to, like, stamp. There
8 was no final agreement.

9 Q. Well, was the proposal from Mr. DeMille that
10 you guys were, I guess -- I mean, what were
11 you doing, considering it, or where did it
12 end?

13 A. Yes. Considering it, yes.

14 Q. Did Mr. DeMille understand that he was
15 saying -- well, let me ask you this: Was
16 Mr. DeMille clear that he would waive -- and
17 let's just say it's \$100,000 in amounts
18 owed, in return for the other amounts owed,
19 being paid at some point in the future and
20 the two parties continuing to do business?

21 MR. KAMPMAN: Objection.

22 Tim, go ahead.

23 THE WITNESS: Yes.

24 BY MR. CAMPBELL:

25 Q. And did you ever tell Mr. DeMille that

1 Dynotec was not interested in that deal?

2 A. No.

3 Q. Okay. And then you -- the parties did move
4 forward after that -- those discussions, and
5 you did continue to do business in 2018,
6 2019, and most of 2020, right, or at least
7 half of 2020?

8 A. Yes.

9 THE TECHNICIAN: Okay. Let's
10 take a short break. I need to look at my --
11 I haven't heard from the judge yet, so I
12 don't know if we'll hear anything on that.
13 Why don't we take about a 10-minute break.
14 Does that work for you guys?

15 MR. KAMPMAN: It works for us.

16 MR. CAMPBELL: Why don't we come
17 back at 10:15; is that okay?

18 MR. KAMPMAN: Yes, 10:15 works.

19 (At this time a recess was held.)

20 BY MR. CAMPBELL:

21 Q. Okay. When we were ending at the break, I
22 was asking you about those 2018
23 negotiations.

24 Remember that discussion?

25 A. Yes.

1 Q. Let me ask you this: Had the IRS given you
2 and your wife notice of the tax dispute
3 prior to those phone calls?

4 A. I don't remember.

5 Q. Well, let me ask you it this way: When did
6 you get the first notice? Was it, like,
7 a -- was it a letter? Was it a lawsuit?
8 How did you get the first notice?

9 A. Just a letter, if I remember right.

10 Q. Okay. And I guess, is it your recollection
11 that 2013 -- I mean, let me ask it this way:
12 In 2013, for example, did Dynotec pay some
13 of the federal income taxes or just none of
14 it on behalf of the employees?

15 For example, if I just throw out
16 a number, say you owed 25,000, did Dynotec
17 pay 20 of it or none of it?

18 MR. KAMPMAN: Objection.

19 Tim, go ahead.

20 THE WITNESS: I don't remember
21 exactly. Yes, there was -- in 2013, there
22 was some tax payments.

23 BY MR. CAMPBELL:

24 Q. There was. Okay.

25 Was that every year, or was it --

1 was it to the point when the tax payments
2 would not be made?

3 A. I think after 2013 there wasn't any partial
4 payments made at that point.

5 Q. So it's your recollection that -- well, let
6 me ask you this: Was it being paid to the
7 state and local government or just -- just
8 not to the federal? I mean, because you'd
9 have the income taxes or the withholdings
10 for presumably at least state and federal,
11 right?

12 MR. KAMPMAN: Objection.

13 Go ahead, Tim.

14 THE WITNESS: Yes. I think in
15 2013 only partials to both and then neither
16 to both.

17 BY MR. CAMPBELL:

18 Q. Okay. And in Minnesota, is there local
19 income taxes or just state?

20 A. Just state.

21 Q. Okay. So is there any state tax dispute for
22 income taxes owing?

23 A. I do not believe so.

24 Q. And then as to the federal, is it your
25 recollection, then, that 2013, 2014, '15,

1 '16, '17 -- that nobody raised an issue as
2 to the failure to pay income taxes to the
3 federal government and state government over
4 all those years?

5 MR. KAMPMAN: Objection.

6 Go ahead, Tim.

7 THE WITNESS: What do you mean by
8 "nobody"?

9 BY MR. CAMPBELL:

10 Q. Well, I guess I would say that -- I'm asking
11 you in 2018 if you were aware of the
12 dispute. I guess, in 2018 -- let me ask it
13 this way: In 2018, were you personally
14 aware -- prior to negotiating with
15 Mr. DeMille, were you personally aware that
16 the state and federal income taxes had not
17 been paid over those years, from 2013 to
18 2017?

19 A. Yes.

20 Q. Okay. And with that -- and I guess, did --
21 why did you start making the payment in
22 2018? Why did Dynotec start?

23 A. We had finally financially recovered enough
24 to start making those payments as the
25 payroll, you know, ran each week, so...

1 Q. Okay. And has that continued through today?

2 A. Yes.

3 Q. Okay. Was that through an agreement with
4 the federal government, or was that just due
5 to your finances?

6 MR. KAMPMAN: Objection.

7 Tim, go ahead.

8 THE WITNESS: I would say just
9 finances, yes.

10 BY MR. CAMPBELL:

11 Q. Okay. And then -- so my question is just
12 simply: You're personally aware of the, I
13 guess, amounts owed, but had you or Dynotec
14 been made aware through any of the taxing
15 authorities, prior to the discussions with
16 Mr. DeMille in 2018, that the federal
17 government was seeking the payment of those
18 income taxes that were not paid?

19 A. Yes. They, of course, were sending letters
20 for payment.

21 Q. Okay. And when did those start, 2013 or --
22 which year do you think they started?

23 A. I don't know.

24 Q. Was it for several years prior to 2018?

25 A. I would assume, yes.

1 Q. Okay. And I guess I -- we have the dispute
2 with Transtar, and I understand that you
3 disagree with the amounts. But you have the
4 dispute with Transtar, you have the federal
5 government. Was there any other amounts
6 owed from 2013 to 2017 that were in dispute
7 aside from the federal government, the state
8 government, and Transtar?

9 A. No.

10 Q. Okay. So as to Transtar at the time in
11 2018 -- and again, I'm not asking you to
12 waive your arguments. I just want to
13 verify. At the time in 2018 when you were
14 having discussions with Mr. DeMille,
15 Mr. DeMille was saying there was two
16 buckets. And on the purchases of Transtar
17 products, Mr. DeMille's position was that it
18 was a little in excess of \$700,000 at that
19 time.

20 Is that a fair statement?

21 A. Yes.

22 Q. And then as to the core charges that
23 Transtar believed they were owed, it was a
24 little over 200,000, or what would be that
25 amount?

1 A. I don't remember from the call, but yes,
2 somewhere in that range.

3 Q. Okay. A little over 200,000?

4 A. Correct.

5 Q. Okay. And you and your wife were asking --
6 I think you asked for a little bit more than
7 just 100,000 being waived, right?

8 You asked for 100,000 being
9 waived, and you asked for some current
10 months of core charges being waived as well?

11 A. Yes.

12 Q. Do you know how much you were asking for the
13 waiver from Transtar?

14 A. I don't know. They were talking months. I
15 don't remember the dollar amounts.

16 Q. Okay. Did it end up that Mr. DeMille was
17 willing to waive approximately \$100,000 in
18 core charges?

19 A. I do not know that that was ever settled.

20 Q. Okay. Well, I'm not asking you -- I'm
21 asking you what he was proposing.

22 A. That was in the argument, yes.

23 Q. Okay. And he was saying, I'll waive
24 \$100,000 in core charges. The remainder of
25 the core charges and product purchases would

1 be paid out over time was Mr. DeMille's
2 position?

3 A. Yes.

4 Q. And that in return for that, the two parties
5 would continue to do business together?

6 A. Yes.

7 Q. Okay. Had the business actually stopped at
8 that time, or was it ongoing and you were
9 doing these discussions at the same time?

10 A. I guess both. Purchases were fairly normal,
11 but the purchases from Transtar to Dynotec
12 were very low to almost zero.

13 Q. Meaning Dynotec at that time was not buying
14 new Transtar product?

15 A. No. That Transtar was not buying Dynotec
16 product at that point.

17 Q. Okay. So this was to open up saying, hey,
18 buy our products so we can be a supplier to
19 you? You were trying to reach an agreement
20 on these amounts owed?

21 A. Yes.

22 Q. After this phone call -- after these -- I
23 guess you're saying that Mr. DeMille
24 presented the issue. You don't know if it
25 was final.

1 How did the phone calls end then?

2 I mean, how did they end? Did you guys work
3 out a -- go and do business, or how did it
4 end?

5 A. I mean, the one call ended that we were
6 going to talk again, and I don't remember
7 what the next call was or if there was a
8 next call.

9 Q. Okay. Did Mr. DeMille follow through and
10 start having Transtar purchase
11 remanufactured automatic transmissions again
12 from Dynotec?

13 A. Yes. At a very limited -- limited rate,
14 yes.

15 Q. Okay. And then the disputes -- you
16 mentioned in your discovery responses
17 receiving a letter from me in June of 2020,
18 right?

19 A. Correct. July, I think it was.

20 Q. Did you and Mr. DeMille speak again about
21 the amounts that Transtar believed were owed
22 after the 2018 phone calls and prior to my
23 letter in 2020?

24 A. I don't recall.

25 Q. You don't recall. Okay.

1 Did your wife speak to Transtar
2 or Mr. DeMille?

3 A. I don't know at this point without asking.

4 Q. Okay. You would have to check with her?

5 A. Yup.

6 Q. Okay. Okay. So on those points -- and on
7 the current --

8 MR. CAMPBELL: Let's look at
9 another exhibit. Let's just go through --
10 Meagan, if we could put up Exhibit 2.

11 (Lundquist Deposition Exhibit
12 Number 2 was marked for identification.)

13 BY MR. CAMPBELL:

14 Q. Okay. And did you have a chance -- did you
15 review Mr. DeMille's declaration that was
16 filed with the court?

17 A. I guess I did.

18 Q. Did you see this attachment to the
19 declaration?

20 A. I did not actually.

21 Q. You did not. Okay.

22 So let's go through a little of
23 this and just see.

24 MR. CAMPBELL: If we could --
25 just pull up that part that -- all that

1 writing there, Meagan, just so we can look
2 through that.

3 BY MR. CAMPBELL:

4 Q. So I just want to look at this one just to
5 see, you know, the issue. So first of all,
6 it says, "Sales to partner as customer."

7 Do you see that yellow there, the
8 top line?

9 A. Yes.

10 Q. Okay. So this one, Mr. DeMille's
11 declaration, is stating that this was for
12 Transtar products that were purchased by
13 Dynotec.

14 A. Okay.

15 Q. Okay. And then the next line are -- the due
16 from Transtar were still amounts owed from
17 Transtar purchasing, I'm assuming,
18 remanufactured automatic transmissions from
19 Dynotec.

20 Do you see that green number?

21 A. Yes.

22 Q. Do you disagree with that green number?

23 A. I don't know. I would have to verify it.

24 Q. And then finally, we're looking at the
25 receipts of purchases from partner as

1 supplier due to Transtar in the -- I'll call
2 it orange, the 324,891.27.

3 Do you see that?

4 A. I do.

5 Q. And that is for core charges not returned,
6 at least in Transtar's view, right?

7 A. Correct.

8 Q. And then the final number is warranty labor,
9 and what is that, the labor that Transtar --
10 is there a warranty on the products that
11 Dynotec sold to Transtar which was then sold
12 to a Transtar customer?

13 A. Correct.

14 Q. How does the warranty work on those
15 remanufactured automatic transmissions? How
16 was it typically done?

17 If you were to sell it to
18 Transtar and there was a warranty claim, how
19 does that work?

20 A. Start to finish or crediting it?

21 Q. Start to finish. I mean, let's say that
22 Dynotec sold or remanufactured automatic
23 transmissions to Transtar in 2019. Okay?

24 A. Okay.

25 Q. What type of warranty comes with that?

1 A. 18 months, 18,000 miles.

2 Q. Okay. So Transtar then would sell to one of
3 its customers that transmission, right?

4 A. Correct.

5 Q. And then that customer would give that same
6 warranty and maybe in addition some of their
7 own, but they would give that same warranty
8 to the end user, right?

9 A. Yes. Yes. I mean -- and obviously, open to
10 whatever they sold as a warranty.

11 Q. Okay. And then if that end user, the car
12 owner, believed that they had transmission
13 issues within those 18 months, who did the
14 warranty work?

15 Was it like AMCO?

16 I mean, let's say that AMCO was
17 the end customer for this. Would AMCO do
18 the warranty work for the customer?

19 A. That was at Transtar's discretion. We had
20 no control over who would do the work.

21 Q. Okay. And then how would it work? Transtar
22 would then send an invoice, or what would
23 Transtar do if they believed there was
24 warranty work to complete?

25 A. It depended on the situation. If they had

1 another transmission from Dynotec in stock
2 and they sent it, we would handle that
3 warranty direct. If they sent it from
4 another vendor, then we would wait for it to
5 be returned, do an inspection, and then
6 whether or not we issued labor -- a warranty
7 credit or not.

8 Q. Okay. How did this number come about?

9 What do you -- what is -- do you
10 have an understanding of what Transtar's
11 position is as to this number, the
12 27,831.81?

13 A. Well, it would be for labor payments, but I
14 don't know what they were for right now
15 without verifying them. It's just a number.

16 Q. Did you and your wife verify any of these
17 numbers?

18 A. We have not yet.

19 Q. Now, as -- as to the parts purchased, the
20 728,465.65, Dynotec doesn't dispute that --
21 probably even more than that, but Dynotec
22 doesn't dispute that parts were purchased by
23 Transtar, right?

24 A. No.

25 Q. Okay. Dynotec's issue is, what, you're

1 claiming that some or all of those parts
2 were faulty?

3 A. I don't know about those parts listed in
4 that dollar amount right now. We, of
5 course, had years of torque converter
6 problems that we had been trying to address.
7 So yes, there's a big number. I just don't
8 know that's it's in that number.

9 Q. Let me ask you, first of all, as to the core
10 credits, the \$324,891.27. What is Dynotec's
11 position on the core credit?

12 A. I would have to review that with, you know,
13 the actual documentation, but I would assume
14 there's money due there. I just -- I don't
15 know, you know, between whether it was
16 incorrect, you know, returns, not returned,
17 not our transmission. The number would have
18 to be -- would have to be verified.

19 Q. Well, would it not be the case that when the
20 cores were returned that Dynotec would give
21 written documentation to Transtar detailing
22 whether the cores were credited in whole or
23 in part?

24 A. No. The way I understand it is they would
25 put the credit on there regardless, and then

1 we would have to go back and prove whether
2 or not it was credited or received. They
3 put the number on there no matter what.

4 Q. Okay. But -- I mean, if Dynotec was
5 disputing the number -- I mean, we're now at
6 least six months later, and we're -- I mean,
7 these things weren't all -- didn't all occur
8 in June. That credit, that's a lot of
9 transmissions purchased, right?

10 A. Yes.

11 Q. I mean, if the core charge is 324,000 -- in
12 excess of 324,000, the total purchases would
13 be well over a million dollars, right,
14 probably triple that?

15 MR. KAMPMAN: Objection.

16 Go ahead, Tim.

17 THE WITNESS: I would have to do
18 the math on that, but no, I don't think it
19 would be over a million.

20 BY MR. CAMPBELL:

21 Q. You don't think the actual finished product
22 would be that much more than the core
23 charges?

24 A. We would have to do some math in order for
25 me to agree to that. I don't know

1 without -- without getting a calculator out.

2 Q. Let me just ask you in simple terms. I
3 mean, maybe as a dumb lawyer I don't
4 understand the transmission business at all,
5 but I would think that if I'm buying the
6 finished product it would cost more than the
7 core charge.

8 Is that not correct?

9 A. Not in every case.

10 Q. Not in every case.

11 A. No.

12 Q. So the core charge might be in excess of the
13 actual finished product?

14 A. It could be.

15 Q. It could be.

16 A. It could be. Yup, absolutely it could be.
17 A critical core, depending on the
18 application, you know, I -- I bet there are
19 some that are equal, possibly some that are
20 more.

21 Q. Okay. Well, regardless of whether these
22 purchases were 300,000 or a million or
23 whatever amount it is, the actual purchase
24 of the finished products, does Dynotec not
25 give any documentation to Transtar to say,

1 hey, you have a credit; here you listed a
2 credit of this core, and we're disputing it
3 or we are returning this core? Is there no
4 documentation from Dynotec?

5 A. No. I would say there's documentation. It
6 doesn't mean that they would process it --
7 or if we denied it -- if we denied a labor
8 claim, it doesn't mean that it was taken
9 care of on Transtar's side.

10 Q. Well, my question is: When I look through
11 your documents, I don't see any documents
12 where Dynotec is disputing core charges and
13 informing -- informing Transtar that the
14 total of that amount is in dispute.

15 A. Yeah. I don't know what was submitted as
16 far as that goes from Brian.

17 Q. From Brian. Who is Brian?

18 A. Brian Kampman.

19 Q. Okay. Well, I'm asking you just in terms of
20 ordinary business. Do you know if Dynotec
21 advises, not just Transtar but its
22 customers, of, hey, we are disputing or --
23 some or all of the credit for a core?

24 A. Yes. They had been advised on many, many,
25 many line items. I couldn't tell you. I

1 don't handle it direct. I just know that
2 the disputes go unresolved.

3 Q. Is there writings of Dynotec's position?

4 A. I don't know at the moment.

5 Q. You don't know. Okay.

6 So you don't know if in the
7 ordinary course of business Dynotec gives
8 out any type of written notification to
9 customers that a core charge was rejected in
10 whole or in part?

11 A. Yes. Yes, we do. Whether -- the credit
12 could be zero or it could be for the full
13 amount if a credit is issued. It's whether
14 or not it was ever credited, subtracted,
15 whatever on Transtar's side.

16 Q. Okay. But here's -- I'm -- and maybe I'm
17 not explaining myself. Real simple. Okay.

18 Transtar is putting this core
19 charge down. When they return it, they put
20 it in their documentation saying they're
21 owed a certain amount of core charge, right?

22 A. Yes.

23 Q. And my question to you is: In response to
24 that, is Dynotec giving any written
25 statement --

1 MR. CAMPBELL: And I think the
2 court's calling. Just one second. Let me
3 take this. I'll put it on mute for just a
4 second.

5 (Whereupon, a call from the Court
6 was had.)

7 MR. CAMPBELL: The magistrate
8 judge is going to take a call -- we don't
9 need to do it on the record. Why don't we
10 take a break right now. I'm going to get an
11 e-mail, or all of us will get an e-mail with
12 the call-in info. We'll all call in to the
13 magistrate judge, raise as our issue as to
14 the tax issues and personal liability, and
15 then we'll come back in.

16 Laurie, I think we'll probably
17 be -- it shouldn't be long. I would assume
18 we're going to be 5 or 10 minutes, so we'll
19 be back.

20 (At this time a recess was held.)

21 MR. CAMPBELL: During break,
22 counsel spoke to the magistrate judge and
23 we've reached an agreement that we're not
24 going to go further into the personal IRS
25 criminal or civil liabilities as to

1 Mr. Lundquist, but we're not waiving those
2 rights. We can go into those post
3 deposition.

4 And, Brian, you agree that,
5 subject to some protective orders, you're
6 going to look into the amount or amounts
7 that Mr. Lundquist may be personally
8 responsible for for Dynotec's amounts owed
9 and penalties or whatever is owed to the
10 IRS.

11 Is that a fair statement?

12 MR. KAMPMAN: That is a fair
13 statement.

14 MR. CAMPBELL: So we'll close
15 today at some point and that issue will
16 remain out there and we'll work together to
17 try to get that.

18 So if there's nothing else, we'll
19 go back.

20 BY MR. CAMPBELL:

21 Q. Mr. Lundquist, are you set to go, or do you
22 need a break or anything?

23 A. I'm good.

24 Q. We'll take a break here momentarily.

25 Let's talk -- let me just ask

1 you, Mr. Lundquist: Have you ever
2 personally filed bankruptcy?

3 A. I have.

4 Q. You have.

5 When was that?

6 A. I don't recall the exact year. I think it
7 was around 2000.

8 Q. 2000. Okay.

9 A. Yeah.

10 Q. Has Dynotec ever filed for bankruptcy?

11 A. No.

12 Q. Okay. And are you the sole owner of
13 Dynotec?

14 A. Yes.

15 Q. Okay. Okay.

16 MR. CAMPBELL: So let's go back
17 to that exhibit we were looking at,
18 Exhibit 2.

19 Thanks, Meagan.

20 BY MR. CAMPBELL:

21 Q. So when we broke, I was asking you about the
22 core charges, the \$324,891.27.

23 And just so the record is clear,
24 those core charges you -- you dispute the
25 amount. I'm not asking you to waive any of

1 that, your arguments.

2 But you don't dispute that
3 Transtar has given notice to Dynotec that it
4 believes these core charges are owed too?

5 A. Yes.

6 Q. Okay. And then as to documentation back to
7 Transtar, you don't know if Dynotec gives
8 any type of documentation to Transtar or
9 other customers as to individual core
10 charges that are disputed?

11 A. We do give documentation back that would say
12 whether it was a zero or a partial or
13 whatever the situation was.

14 Q. Okay. And so you do believe Dynotec has
15 that for all or some of this 324,891.27?

16 A. Yes.

17 Q. And could you make certain that Mr. Kampman
18 gets those documents so we can see those?

19 A. Yes.

20 Q. Okay. And then as to that, is the core
21 returned to Transtar if it was rejected on
22 whole or in part?

23 A. I don't know that process. I would have to
24 find out.

25 Q. You would have to find out. Okay.

1 A. Yeah.

2 Q. With that -- is that a -- I guess let me ask
3 you about in terms of the amount.

4 Is that a surprisingly high
5 amount for a customer to have core charges
6 that are rejected?

7 A. You know, I don't know, because, you know,
8 we went on so long while Transtar was in
9 bankruptcy that, you know, any of these
10 numbers really need to be verified on both
11 sides. You know, they drew a line in the
12 sand and that's the number they have and
13 they need to be verified.

14 Q. My question is: I mean, you understand that
15 Transtar employees were not likely the ones
16 who were putting in the remanufactured
17 transmissions into the customer's car,
18 right?

19 A. Correct.

20 Q. They were selling -- Transtar was selling
21 Dynotec's products to -- via AMCO or some
22 other Transtar customer, right?

23 A. Yes.

24 Q. And then that Transtar customer would return
25 the core to Transtar, right?

1 A. Yes.

2 Q. And then Transtar would return it to
3 Dynotec?

4 A. In theory.

5 Q. In theory. Okay.

6 Is it your position that the core
7 was not returned, or is it your position
8 that the core was returned and it was
9 damaged or some other issue?

10 A. Both. They were taking credits for cores
11 that were not returned.

12 Q. Okay. But you don't have that record today?

13 A. I don't have it today.

14 Q. Are you and your wife in the process of
15 reviewing the core charges?

16 A. Yes.

17 Q. And when do we expect to get that core
18 charge response?

19 A. I don't know, but I can find out.

20 Q. Okay. Okay. Now as to the purchases, let's
21 talk about the other big number, the
22 \$728,465.65. Now -- and I think we already
23 talked about it.

24 Dynotec doesn't dispute that that
25 amount or more -- probably more because some

1 was paid, right, of -- Transtar purchases
2 were made from Transtar by Dynotec, right?

3 A. On the 728,000 number?

4 Q. Yes.

5 A. Okay. I just think you said it backwards is
6 all, so...

7 Q. Those are purchases from Dynotec -- Dynotec
8 making purchases from Transtar, right?

9 A. Correct.

10 Q. Okay. Does Dynotec dispute that that
11 amount, at least of the purchase amount, is
12 accurate?

13 MR. KAMPMAN: Objection.

14 Go ahead, Tim.

15 THE WITNESS: Yes, I would
16 dispute that amount.

17 BY MR. CAMPBELL:

18 Q. You would dispute that amount.

19 Do you have that accounting of
20 your dispute done yet?

21 A. I do not.

22 Q. You do not.

23 And what are you doing to dispute
24 that total purchase amount?

25 A. Each line item needs to be reviewed, but I

1 don't think that we have the most current --
2 or we did not have the most current ledger
3 until you had sent that over. Our ledger
4 was old from Transtar.

5 Q. Well, you've had the ledger since July of
6 2020, right?

7 A. That, I don't know. I didn't -- I didn't
8 think so.

9 Q. So you're saying Dynotec is reviewing the
10 ledger to determine whether the \$728,465.65
11 is accurate?

12 A. Correct.

13 Q. Okay. Now, on this offset, what is Dynotec
14 alleging as to this offset?

15 A. This is failed torque converters that we
16 purchased from Transtar that failed after
17 installation causing severe damage to the
18 transmission, causing it in need of either
19 replacement or to be overhauled again.

20 Q. Okay. And did you give documentation of the
21 failure and the alleged warranty work or
22 work that Dynotec performed?

23 A. Multiple times, yes.

24 Q. I'm not talking about a verbal claim.

25 Is there documentation -- just

1 like the warranty labor, when we look at
2 that 27,000, Transtar is sending
3 documentation to Dynotec informing Dynotec
4 of warranty labor being performed, right?

5 A. Yes.

6 Q. Did Dynotec send documentation to Transtar,
7 in the ordinary course of business, advising
8 Transtar of torque converter X failed,
9 here's our work, here's the documentation to
10 confirm the work?

11 A. It was not an ongoing -- that we were
12 sending invoices. When we were trying to
13 get resolution to the problems, we had sent
14 groups of invoices for them to look at. You
15 know, multiple people were involved, and we
16 went into years of runaround.

17 Q. Well, whether -- you're talking about
18 negotiations.

19 Mr. Lundquist, if you are getting
20 a product -- and "you" being Dynotec -- and
21 that product Dynotec believes failed or that
22 there was a warranty coverage, is there not
23 some documentation that you provide to --
24 whether it's Transtar or any other
25 manufacturer or seller of the fact that,

1 hey, your product failed and here's the work
2 that we performed and you owe us X amount?

3 A. It was not given on a daily, weekly basis.
4 It was -- it was accruing.

5 Q. Was it given at all during the course this
6 relationship?

7 A. In small amounts, yes. The big number was
8 brought up when Tom DeMille came back to
9 Transtar.

10 Q. Okay. And I understand making an argument
11 that there were torque converters that
12 failed. But you do understand that if the
13 warranty labor -- if Transtar put warranty
14 labor here of a million dollars instead of
15 27,000, would you not say to Transtar, I
16 want to see the documentation of this
17 alleged million dollars of warranty labor?

18 A. Yes.

19 MR. KAMPMAN: Objection.

20 Go ahead, Tim.

21 THE WITNESS: Yes.

22 BY MR. CAMPBELL:

23 Q. And you're not just going to take Transtar's
24 word for it, right?

25 A. Yes. You know, I -- yes.

1 Q. And so why wasn't Dynotec sending written
2 documentation of the alleged torque
3 converter issues, and more importantly the
4 work that was being performed for those
5 customers in order to correct the torque
6 converter issues?

7 A. I don't know that they knew what to do with
8 it. Anybody that I was in contact did not
9 know what to do with them, so we just kept
10 accruing them and -- and keeping track of
11 them.

12 Q. "We" being Dynotec?

13 A. "We" being Dynotec, yes.

14 Q. And did Dynotec actually keep documents
15 showing the alleged product that was
16 purchased with an invoice that showed, first
17 of all, that the torque converter or some
18 other product was faulty?

19 A. Yes.

20 Q. Was that produced or no?

21 A. Yes.

22 Q. Okay. And then does Dynotec have actual
23 documentation showing the alleged warranty
24 work or replacement costs that were for that
25 product?

1 A. Yes.

2 Q. It does. Okay.

3 But that was not provided to
4 Transtar during the course of the business
5 relationship?

6 A. Like I said, in small amounts, but there was
7 never -- there was never any traction. It
8 was handed off to them, and nothing was done
9 with it.

10 Q. Okay. When you say "small amounts," you're
11 claiming that the amounts are in excess of a
12 million dollars now, right?

13 A. Yes.

14 Q. Okay. What small amount was documented to
15 Transtar during the ordinary course of
16 business?

17 A. I don't know the exact number, but early on
18 when the problems started, we had brought
19 invoices to Rick Wilemon from Transtar, and
20 there was about \$70,000 worth of claims on
21 there that was handed off to him.

22 Q. Okay.

23 A. And Rick sent it off to the group --
24 whatever that group was in Transtar, and
25 never heard a word.

1 Q. What year was that?

2 A. I think that was 2015. I think it was our
3 first trip down to the torque converter
4 plant in Tennessee.

5 Q. Okay. 2015 is when you handed that off you
6 said?

7 A. Yeah.

8 Q. And did Transtar give a credit of \$70,000?

9 A. No.

10 Q. It did not. Okay.

11 And did you hand off any other
12 documentation of the alleged defective
13 product after that 2015 documentation?

14 A. I would say no. I tried to give copies to
15 Tom DeMille in 2018 when he was here in my
16 conference room, and he was not interested
17 in taking it.

18 Q. And what was that paperwork that you were
19 trying to hand off to him?

20 A. I was trying to show him the failure reports
21 from Transtar, the invoices that we had
22 accrued for labor payments to our customers,
23 parts costs, et cetera.

24 Q. Okay. Well, you've handed off, you claim,
25 about \$70,000 in documentation that you

1 claim support the defective product, right?

2 A. Early on, yes.

3 Q. Okay. Do you think that it's -- is it your
4 normal business practice to then claim that
5 there's more than 900,000 more of that
6 documentation that you don't give over the
7 next six years of the business relationship?

8 MR. KAMPMAN: Objection.

9 Go ahead, Tim.

10 THE WITNESS: There was -- there
11 was so many phone calls. There were so many
12 people at Transtar trying to solve it,
13 trying to get resolution, trying to figure
14 out what to do. Years went by. Then the
15 bankruptcy started, and during the
16 bankruptcy, there was little to no
17 communication.

18 BY MR. CAMPBELL:

19 Q. Okay. Well, my question is: On your
20 documentation, certainly no different than
21 this warranty labor as to a certain product
22 that Transtar is claiming, is it not
23 something that Dynotec would lay out in
24 writing to a customer or to a supplier that,
25 here's the product that was purchased,

1 here's what happened, and here's the cost
2 that we incurred in order to repair the
3 issue?

4 A. That's what I tried to do in early '18 with
5 Tom DeMille.

6 Q. Okay. So you're claiming -- well, why not
7 just send it out to Transtar if you claim
8 that you have this documentation?

9 I mean, if you're disputing this
10 amount or if you're claiming warranty work,
11 why would you not send that out with a
12 claim?

13 A. Yeah. Who was I suppose to send it to?

14 Q. I would think that you would send it to your
15 supplier, you would send a letter.

16 Now as to it, what was the
17 warranty on the torque converter that is at
18 issue?

19 A. What do you mean?

20 Q. What was the warranty? What did it cover?

21 You said -- for example, you gave
22 me your warranty. What is the warranty on
23 the torque converter?

24 A. You know, it had changed over time with
25 Transtar, but I think at the time that the

1 problem started it was three year unlimited
2 miles.

3 Q. Okay. And it was a replacement of that
4 torque converter, correct?

5 A. Yes, according to their -- according to
6 their warranty.

7 Q. Yes.

8 And you're here saying that you
9 should get warranty labor, I guess, right?

10 You're claiming that your
11 employees did a certain amount of work and
12 that you should get paid for that?

13 A. Correct.

14 Q. Okay. And you never gave documentation. I
15 understand that you claim -- when you were
16 handing it off to Mr. DeMille, were you
17 giving actual documentation of each part
18 that was allegedly defaulted and how many
19 man hours were put into each of those parts?

20 A. Yes. I was going to give him the whole
21 entire stack, but he did not want it.

22 Q. Presumably you've gave that whole entire
23 stack to Mr. Kampman, and it's been provided
24 to us.

25 A. Yes.

1 Q. So -- and that shows the specific labor work
2 for each of the products?

3 A. Correct.

4 Q. What right does Dynotec believe -- where
5 does the right come from that Transtar
6 somehow owes for labor costs?

7 A. Above normal circumstances and admissions
8 from Transtar employees, that they were
9 going to take care of more than the torque
10 converter.

11 Q. And when was the last claim of this that you
12 claim?

13 When was the last time you heard
14 somebody make that -- I guess what you would
15 frame as a promise?

16 A. I would say in 2018.

17 Q. And who allegedly made that?

18 A. I would say it had to have been Scott
19 Hopkins front Transtar. It had to be Corby
20 Wilemon. I don't think Tom DeMille made any
21 promises after that meeting.

22 Q. Would you not -- if those promise were made,
23 would it not seem to make sense that you
24 would send a letter saying that, per your
25 promise, here are the parts at issue, and

1 here's a labor cost for each of those parts?

2 MR. KAMPMAN: Objection.

3 Go ahead.

4 THE WITNESS: Yes. Looking back,
5 yes, it should have been sent.

6 BY MR. CAMPBELL:

7 Q. Do you think it's fair to now come into a
8 courtroom and to gather documentation
9 allegedly claim that the \$728,465.65 in
10 parts -- I guess what portion of that are
11 you claiming is faulty, all or some?

12 MR. KAMPMAN: Objection.

13 Go ahead, Tim.

14 THE WITNESS: I would say some to
15 all, yes.

16 BY MR. CAMPBELL:

17 Q. Some to all.

18 So I guess I would have to
19 question, if all of the product was faulty,
20 why was Dynotec continuing to buy the
21 product?

22 A. Well, we -- unfortunately, I have to tell
23 you that we were being told that we were
24 going to be taken care of and they would
25 help us out and they would get through it.

1 So I believed what they were saying, and I
2 continued to purchase from them.

3 Q. Could it be that no other supplier would
4 give you this line of credit to run up
5 700,000 in excess parts without paying?

6 MR. KAMPMAN: Objection.

7 Go ahead, Tim.

8 THE WITNESS: I don't know that.
9 I never asked anybody else to do that.

10 BY MR. CAMPBELL:

11 Q. Now, similar to not paying the federal
12 government, was Dynotec looking at these
13 amounts owed to Transtar and just simply
14 saying, financially, we can't pay this?

15 MR. KAMPMAN: Objection.

16 Go ahead, Tim.

17 THE WITNESS: You know, it
18 occurred over time, so -- you know, there
19 was payments being made, I mean, along the
20 way. So I -- it was never about not paying
21 Transtar, no.

22 BY MR. CAMPBELL:

23 Q. I guess I would say, if there's 324,000 in
24 core charges -- and I understand that you
25 don't necessarily know if that's the -- I

1 guess you do know. That 324 is an amount on
2 those core charges that Transtar has given
3 you in writing as to the amounts that they
4 believe is owed to Transtar on core charges,
5 right?

6 A. Correct.

7 Q. Has that amount been paid to the federal
8 government for the income taxes?

9 Where has the money gone?

10 MR. KAMPMAN: Objection.

11 Go ahead, Tim.

12 THE WITNESS: It has not been
13 paid.

14 BY MR. CAMPBELL:

15 Q. It has not been.

16 Where's that money gone?

17 I mean, where's -- if we're
18 looking at this in excess of a million,
19 you're saying that, what, you paid employees
20 to do warranty work? Is that your
21 allegation?

22 MR. KAMPMAN: Objection.

23 Go ahead, Tim.

24 THE WITNESS: Yeah. Just
25 operating, you know, payroll expenses, you

1 know, the normal course of business.

2 MR. CAMPBELL: Okay. Let's take
3 a break. I don't think we'll be that much
4 longer. Why don't we take a break until
5 11:30 eastern. Okay?

6 MR. KAMPMAN: Thanks, Dave.

7 (At this time a recess was held.)

8 BY MR. CAMPBELL:

9 Q. Mr. Lundquist, I just want to ask you a
10 follow-up to some of the points. Those
11 verbal claims on the warranty work for the
12 torque converters, who did you say made the
13 verbal claims?

14 I guess, who are you claiming --
15 who did -- I mean, you said Tom did not, but
16 who made the verbal claims?

17 A. My recollection, I mean, it was all the way
18 up the chain, but Don Robinson, Jim Deal or
19 James Deal, Scott Hopkins, Corby Wilemon,
20 Rick Wilemon, Ed Orzetti. I think that's
21 it.

22 Q. Okay. And what did they allegedly say?

23 A. Well, we never got to a point of resolution,
24 but they -- they -- they knew it was a
25 problem. They said to keep track of it and

1 we'll try and figure it out.

2 Q. Okay. So keep track of it, try to figure it
3 out is as much as they said?

4 A. Yeah. Obviously, there was more to the
5 conversations, but, you know, they knew it
6 was going on. They knew that they had to do
7 something. We just didn't ever come to that
8 point where we got that agreement.

9 Q. When is the last discussion you had with any
10 of those gentlemen as to the torque
11 converters?

12 A. We started building our own torque
13 converters -- 2018, I think it was. So -- I
14 mean, I would say in 2017 is, you know,
15 the -- they were just sitting there as
16 problems, and we weren't purchasing them any
17 more, so...

18 Q. Okay. And then Mr. DeMille in 2018, when he
19 was reviewing the amounts owed, did not make
20 any of those statements to you?

21 A. No.

22 Q. Okay. Okay. And now let me ask you: Prior
23 to -- let's say in 2016, who were -- who was
24 Dynotec's largest customers? Give me your
25 top three in, like, 2016.

1 A. Besides Transtar, I could not answer that
2 right now.

3 Q. You couldn't tell me who would be the
4 largest repeat customers?

5 A. The only one would be Transtar. Transtar
6 was our biggest customer at that point.

7 Q. Well, you can't give me any of the other
8 entities that purchased your products?

9 A. Not without looking at numbers to tell you.
10 We have thousands of customers. It's hard
11 to remember that.

12 Q. Okay. And so -- I guess when I follow-up
13 with your counsel, we will be able to
14 determine -- do you have customers that --
15 and I'm looking at 2016, because I want to
16 take some depositions of them to see what
17 they say about the products.

18 So in 2016, aside from Transtar,
19 did you have -- was there other entities
20 that purchased multiple remanufactured
21 automatic transmissions on a monthly basis?

22 A. I don't remember.

23 Q. You don't remember.

24 You can't tell me enough about
25 your customer base that -- I mean, is it all

1 one-offs, or is there customers that call
2 you weekly or on a regular basis to get
3 their remanufactured transmissions?

4 A. So back then, it was -- one-offs was the
5 majority of our business. You know, today
6 we have more customers that purchased
7 multiples, but back then it was one-offs,
8 so...

9 Q. Okay. Well, let me ask you this: As to the
10 purchase of your remanufactured
11 transmissions, okay -- and this is 2016 --
12 when you say Transtar was your biggest
13 customer, how big was Transtar, what
14 percentage of your business?

15 A. I don't know. If I put a number out, it's
16 only a guess.

17 Q. Okay. Well, give me your best guess.

18 A. 30 percent.

19 Q. Okay. And we see that the -- with just the
20 core charge, I mean, it has to be a decent
21 amount of purchases, right?

22 A. Right.

23 Q. Okay. So with that -- so I guess I would --
24 I would ask this: So Transtar should have a
25 pretty good understanding of how many of the

1 remanufactured transmissions that they sent
2 out that ended up having problems with
3 customers, right?

4 A. I would assume they would have tracking for
5 that, yes.

6 Q. Okay. So Transtar could look at their
7 purchases from Dynotec and could tell us.

8 And I take it -- are you claiming
9 that -- if Transtar was your biggest
10 customer over these years, are you claiming
11 that your warranty work was on the Transtar
12 sales, or who was it on?

13 A. Both.

14 Q. Both. Okay.

15 So you're saying that Transtar
16 would send them back to your business and
17 your business was doing the warranty work
18 and then you're claiming that as an amount
19 owed by Transtar to you?

20 A. On some of the invoices, yes.

21 Q. So Transtar would certainly have a record if
22 their purchases of your remanufactured
23 transmissions were faulty or not, right?

24 A. Yes.

25 Q. They would know what was the cause,

1 presumably, or at least what was reported by
2 the installer of that transmission?

3 A. Yes.

4 Q. Okay. Okay. So let me -- let me just ask
5 you about, you know, some of these -- some
6 other documents here just -- and I just want
7 to understand a couple things just so I can
8 understand.

9 So are you denying that Dynotec
10 had a line of credit with Transtar?

11 A. I would consider it an open account. That's
12 kind of the way the industry views it.

13 Q. Would you not say an open account is that
14 they are letting you have a line of credit,
15 that you're not required to pay charge on
16 delivery?

17 MR. KAMPMAN: Objection.

18 Go ahead, Tim.

19 THE WITNESS: There was no credit
20 max/min terms. There was no terms to it.
21 To me, it was an open account.

22 BY MR. CAMPBELL:

23 Q. The open account meant that you didn't have
24 to pay everything upon receipt of the
25 product, right?

1 You don't think there was any
2 credit given to you?

3 A. Well, yes, I guess it would be credit, but I
4 viewed it as an open account. They didn't
5 call up and say, you know, you've got
6 \$10,000 you can spend up to. It was an open
7 account.

8 Q. Okay. Well, I guess they probably should
9 have, right?

10 I guess that's shame on Transtar
11 for letting that open account get so high,
12 right?

13 MR. KAMPMAN: Objection.

14 Go ahead, Tim.

15 THE WITNESS: Yes.

16 BY MR. CAMPBELL:

17 Q. Okay. As to -- and you're denying that the
18 document that we reviewed is a credit
19 application?

20 A. Yes. To me, it's an account -- open account
21 application.

22 Q. It is checked off as a credit application,
23 right?

24 A. Yup.

25 Q. But you're denying that it is?

1 A. It's checked off as, yes.

2 Q. You're denying that you personally
3 guaranteed the amounts owed by Dynotec?

4 A. No.

5 Q. You're not. Okay.

6 And you're denying that
7 Dynotec -- you know, regardless of what you
8 call it, was given credit with Transtar,
9 right?

10 A. Yes.

11 Q. When is the last time -- I guess, let me ask
12 you: When is the last time Dynotec actually
13 made a payment to Transtar?

14 A. I don't know the exact date. It was in
15 2020.

16 Q. Okay. And then as to the -- was there
17 purchases of Transtar products after 2017?

18 A. After 2017?

19 Q. Yes.

20 A. Yes.

21 MR. CAMPBELL: Okay. And then
22 let's take a short break. I think we're
23 about wrapped up. I want to touch base with
24 my colleague. Just give us five minutes,
25 guys, and then we'll be back on.

1 MR. KAMPMAN: Sounds good.

2 (At this time a recess was held.)

3 MR. CAMPBELL: We'll order just
4 so -- with that, I'm sure they'll probably
5 read, but we'll order it, just so you know.

6 MR. KAMPMAN: We're going to
7 read.

8 THE COURT REPORTER: What kind of
9 transcript would you like, Mr. Campbell?

10 MR. CAMPBELL: Whatever your
11 normal is fine. I like it electronically,
12 but whatever your normal format is fine.

13 THE COURT REPORTER: And
14 Mr. Kampman?

15 KAMPMAN: That is fine too.
16 Electronic, as long as it's electronic with
17 normal formatting it is fine.

18 BY MR. CAMPBELL:

19 Q. Mr. Lundquist, I just want to ask you just
20 some final questions. On the documentation
21 production that was given, did you review
22 the documents or no?

23 A. I did not. I was just helping put them
24 together in order.

25 Q. So you can't tell me what was produced and

1 what was not?

2 A. Not without reviewing it now that it's been
3 put together.

4 Q. Okay.

5 MR. CAMPBELL: Well, subject to
6 the discussion and agreement we had about
7 your personal tax liability and the
8 investigation into that, then we'll keep
9 open. We can close here for today.

10 Brian, we had an agreement with
11 all of that?

12 MR. KAMPMAN: That's fine.

13 MR. CAMPBELL: And we've already
14 said, Tim, that you will read.

15 Right, Brian.

16 MR. KAMPMAN: Yes. We're going
17 to read.

18 (Concluded at 10:44 a.m. Central)

19

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S I G N A T U R E P A G E

CASE: Transtar Industries, LLC vs. Tim
Lundquist, et al.

DATE OF DEPOSITION: March 17, 2021

I, TIM LUNDQUIST, deponent,
certify that I have read the foregoing
transcript of my testimony and have made the
following corrections and/or changes and the
reason why:

PAGE: LINE: CHANGE:

TIM LUNDQUIST

AFFIX SEAL

NOTARY PUBLIC

Dated this _____ day
of _____, 20____.

Please return to:
Laurie A. Kjelden
5 Hawthorne Court
North Oaks, Minnesota 55127

1 STATE OF MINNESOTA)

2
3 COUNTY OF RAMSEY)

4 Be it known that I took the
5 deposition of TIM LUNDQUIST on March 17,
6 2021;

7 That I was then and there a
8 notary public in and for the County of
9 Ramsey, State of Minnesota, and that by
10 virtue thereof I was duly authorized to
11 administer an oath;

12 That the witness before
13 testifying was by me first duly sworn to
14 testify the whole truth and nothing but the
15 truth relative to said cause;

16 That the testimony of said
17 witness was recorded in stenotype by myself
18 and transcribed into typewriting under my
19 direction, and that the deposition is a true
20 record of the testimony given by the witness
21 to the best of my ability;

22 That I am not related to any
23 of the parties hereto nor interested in the
24 outcome of the action;

25 That the reading and signing
by the witness and Notice of Filing were not
waived;

Witness my hand and seal this
29th day of March, 2021.

LAURIE A. KJELDEN
COURT REPORTER

A				
a.m 1:18,19	46:4,4,6,8 51:3	45:23 46:17,18	aside 14:15 33:25	backwards 72:5
95:18	54:19 66:23	51:13 52:3,5	52:7 88:18	bad 6:10
ability 5:4 97:14	87:8 95:6,10	53:15 54:20	asked 53:6,8,9	ballpark 15:13
able 9:23 88:13	agrees 35:17	55:21 57:16	84:9	22:17 26:18
absolutely 63:16	ahead 18:17	67:6,8 75:7	asking 43:24	banking 31:25
account 2:22 7:7	22:10 24:4,17	77:6,10,11	47:22 50:10	bankruptcy 68:2
7:11,16 12:18	25:22 26:8,13	84:13 85:3	52:11 53:5,12	68:10 70:9
28:7 29:1,17,21	33:15 34:18	87:19 93:3	53:20,21 56:3	79:15,16
29:22 30:15	36:17,25 37:10	and/or 96:7	64:19 68:21,25	banks 25:20
37:6 38:5 91:11	37:25 41:18	annual 15:8,14	assigns 35:20	barbecue 43:13
91:13,21,23	42:10,17 45:13	answer 3:24 4:5	assume 24:20	43:14,17 44:4
92:4,7,11,20,20	45:25 46:22	4:9,16 9:13,17	29:11,23,25	base 6:14,14
accounting 72:19	48:19 49:13	12:21 15:10	51:25 61:13	14:23,24 88:25
accounts 5:24	50:6 51:7 62:16	18:18 19:2,4,19	66:17 90:4	93:23
accrued 78:22	72:14 75:20	22:10 24:4,17	assuming 32:7	based 9:18,22
accruing 75:4	79:9 83:3,13	25:22 26:8,13	57:17	13:17
76:10	84:7,16 85:11	33:15 34:18	attachment	basing 7:8
accurate 31:25	85:23 91:18	36:17,25 37:10	56:18	basis 19:6 75:3
34:8,11 35:13	92:14	37:25 88:1	attorney 36:13	88:21 89:2
35:14 72:12	al 1:7 96:3	answering 4:19	attorney's 36:12	behalf 2:2,8
73:11	allegation 85:21	answers 40:5,6	authorities 51:15	23:12 24:22
action 97:16	alleged 73:21	anybody 24:21	authorized 97:7	28:10,11,12,15
actual 14:19	75:17 76:2,15	76:8 84:9	auto 10:7	28:19 40:25
61:13 62:21	76:23 78:12	anytime 28:14	automatic 6:5,8	44:19 48:14
63:13,23 76:22	allegedly 81:18	APPEARANC...	7:25 9:21 10:12	belief 33:12
81:17	82:17 83:9	2:1	13:15 55:11	believe 49:23
add 9:25 10:21	86:22	application 2:22	57:18 58:15,22	69:14 82:4 85:4
addition 59:6	alleging 73:14	7:3,7,11,16	88:21	believed 40:21
address 3:15	allowed 19:4	28:7,14 29:1,6	available 26:2	41:2 52:23
31:3,4,5 61:6	AMCO 59:15,16	29:18,22 30:15	Avenue 2:10	55:21 59:12,23
administer 97:8	59:17 70:21	35:24 36:21	aware 50:11,14	84:1
admissions 82:7	amount 22:13,20	38:5,14 63:18	50:15 51:12,14	believes 69:4
admitting 41:13	26:11 36:3,8	92:19,21,22		74:21
advised 64:24	43:3 45:4 52:25	applications		benefit 8:16
advises 64:21	61:4 63:23	36:22	back 9:10 11:9	best 89:17 97:14
advising 74:7	64:14 65:13,21	applied 45:16	11:10,12,16	bet 63:18
affiliates 35:19	67:6 68:25 70:3	approached	12:1,4,8,10,11	beyond 17:19
37:3	70:5 71:25	40:20 41:1	12:23 13:2	big 61:7 71:21
AFFIX 96:20	72:11,11,16,18	appropriate	19:17,25 20:16	75:7 89:13
ago 24:8 25:2	72:24 75:2	41:23	21:1 28:13,24	bigger 27:17
agree 37:20	77:14 80:10	approximately	44:11 47:17	biggest 88:6
45:14 62:25	81:11 85:1,7	1:18 6:22 53:17	62:1 66:15,19	89:12 90:9
67:4	89:21 90:18	argument 53:22	67:19 68:16	Bisgaard 2:4
agreement 45:19	amounts 37:19	75:10	69:6,11 75:8	bit 5:7 27:20 35:3
	37:21,22 40:21	arguments 45:20	83:4 89:4,7	53:6
	41:1 43:25 44:8	52:12 69:1	90:16 93:25	Bkampman@z...

2:12 blow 27:7 29:2 31:21 32:20 35:3 blurry 35:3 Bob's 10:5,24 12:14 books 12:17 16:3 bottom 27:8 32:21,24 bought 7:12 13:12 box 32:23 break 4:11,17,19 19:23 20:12,24 47:10,13,21 66:10,21 67:22 67:24 86:3,4 93:22 Brian 2:9 19:24 20:24 64:16,17 64:17,18 67:4 95:10,15 bring 11:9,12 12:1,10,23 13:2 bringing 12:4 Brisbois 2:4 broad 8:15 broke 68:21 broken 11:18 brought 43:17 75:8 77:18 buckets 41:5 52:16 building 87:12 bullet 34:2,23 business 3:15 5:8 6:1,4,18 7:1 15:3 23:16 24:9 25:4 28:3,18 30:9,18 33:25 37:5 38:7,8,11 45:5,23 46:20 47:5 54:5,7 55:3 63:4 64:20 65:7 74:7 77:4	77:16 79:4,7 86:1 89:5,14 90:16,17 buy 7:23 54:18 83:20 buying 7:17,19 18:2,4 54:13,15 63:5 <hr/> C <hr/> C 3:1 calculator 63:1 call 6:9 19:22,23 20:4,10,13 23:18 43:1,6,16 43:20 53:1 54:22 55:5,7,8 58:1 66:5,8,12 89:1 92:5 93:8 call-in 66:12 called 3:4 calling 66:2 calls 39:3,17,24 40:4,7 43:9,21 43:22 44:6,8 48:3 55:1,22 79:11 Campbell 2:3,20 3:9 18:21 19:3 19:6,10,14,21 20:11,22 21:5 22:12 23:9 24:6 24:19 25:24 26:10,17,24 27:5,10,16,22 28:22 29:4 30:4 30:6,21,23 31:7 31:10,19,23 32:19 33:1,19 34:22 35:6,8 36:19 37:2,12 38:2,4 41:22 42:12,20 45:17 46:2,24 47:16 47:20 48:23 49:17 50:9	51:10 56:8,13 56:24 57:3 62:20 66:1,7,21 67:14,20 68:16 68:20 72:17 75:22 79:18 83:6,16 84:10 84:22 85:14 86:2,8 91:22 92:16 93:21 94:3,9,10,18 95:5,13 car 6:17 10:13 11:2,9 59:11 70:17 care 39:12 64:9 82:9 83:24 case 16:17 20:21 61:19 63:9,10 96:3 cash 29:15,16 cause 90:25 97:10 causing 73:17,18 Central 1:19 95:18 certain 10:18 45:3 65:21 69:17 79:21 81:11 certainly 45:8 79:20 90:21 certify 37:4 96:6 cetera 78:23 CHAI 2:4 chain 86:18 challenging 21:11 chance 56:14 CHANGE 96:8 changed 80:24 changes 96:7 charge 7:21 8:25 9:1,2,11,12,20 9:22 10:21 11:10,15 12:8	12:13,15 13:8 13:17 14:8 16:9 18:4 42:5 62:11 63:7,12 65:9,19 65:21 71:18 89:20 91:15 charged 13:16 charges 11:19 17:4 36:11 41:6 41:12,14 42:24 44:21 45:4,10 45:21 52:22 53:10,18,24,25 58:5 62:23 64:12 68:22,24 69:4,10 70:5 71:15 84:24 85:2,4 Chaska 32:9 check 56:4 checked 92:22 93:1 circumstances 82:7 civil 17:6,11 66:25 claim 58:18 64:8 73:24 78:24 79:1,4 80:7,12 81:15 82:11,12 83:9 claiming 22:4 61:1 77:11 79:22 80:6,10 81:10 83:11 86:14 90:8,10 90:18 claims 22:21 77:20 86:11,13 86:16 classifying 21:25 clear 18:11 20:17 35:4 46:16 68:23 clearer 34:20 Cleveland 2:6,11	close 67:14 95:9 COD 29:14 38:13 coffee 4:13 colleague 93:24 collect 36:14 collection 36:20 come 7:20,23 10:11 19:17,25 21:1 28:24 47:16 60:8 66:15 82:5 83:7 87:7 comes 16:7 58:25 coming 35:2 commencing 1:18 communication 79:17 company 23:23 35:12 36:2 complete 11:17 59:24 concern 32:5 Concluded 95:18 conference 43:15 78:16 confidential 19:9 20:20 confirm 74:10 consider 13:7,8 91:11 considered 12:24 considering 46:11,13 contact 76:8 contained 35:23 continue 24:9 47:5 54:5 continued 51:1 84:2 continuing 46:20 83:20 contractors 22:1 control 59:20 conversations 87:5
--	--	---	--	---

40:1 61:5 74:8 76:3,6,17 78:3 80:17,23 81:4 82:10 converters 73:15 75:11 86:12 87:11,13 copies 78:14 copy 33:20,24 34:20 Corby 82:19 86:19 core 6:9 8:25 9:3 9:7,9,11,20,22 9:24 10:2,2,21 11:10,15 12:1,8 12:10,13,15,23 13:2,4,8,8,10 13:11,13,17 14:8 16:7,8,9 16:25 17:4,19 41:6,11,14 42:14,23 44:21 45:4,10,21 52:22 53:10,18 53:24,25 58:5 61:9,11 62:11 62:22 63:7,12 63:17 64:2,3,12 64:23 65:9,18 65:21 68:22,24 69:4,9,20 70:5 70:25 71:6,8,15 71:17 84:24 85:2,4 89:20 cores 16:21 61:20 61:22 71:10 corner 10:8 Corporate 3:16 correct 5:14 6:2 8:23 11:11 19:5 19:20 30:3,19 32:13 53:4 55:19 58:7,13 59:4 63:8 70:19 72:9 73:12 76:5	81:4,13 82:3 85:6 corrections 96:7 correctly 21:10 45:16 cost 36:20 63:6 80:1 83:1 costs 76:24 78:23 82:6 counsel 3:21 4:12 4:18 66:22 88:13 count 5:16 County 1:16 97:2 97:6 couple 91:7 course 28:18 51:19 61:5 65:7 74:7 75:5 77:4 77:15 86:1 court 1:1 4:1 19:15,22,23 20:4,10,13,14 20:23,25 21:2 21:14 56:16 66:5 94:8,13 96:24 97:23 court's 66:2 courtroom 83:8 cover 80:20 coverage 74:22 create 9:8 credit 18:4,7,10 23:24 29:6 35:23 36:22 38:13 41:15 60:7 61:11,25 62:8 64:1,2,23 65:11,13 78:8 84:4 91:10,14 91:19 92:2,3,18 92:22 93:8 credited 42:14 44:23 61:22 62:2 65:14 crediting 58:20	credits 41:20 42:1,5 61:10 71:10 criminal 66:25 critical 63:17 cup 4:13 current 3:15 53:9 56:7 73:1,2 currently 16:10 16:11,23 customer 6:14,14 8:8 10:5 13:5 14:22 17:3 57:6 58:12 59:5,17 59:18 70:5,22 70:24 79:24 88:6,25 89:13 90:10 customer's 11:2 70:17 customers 8:10 10:8 17:3 32:10 59:3 64:22 65:9 69:9 76:5 78:22 87:24 88:4,10 88:14 89:1,6 90:3 cycle 9:10 <hr/> D <hr/> D 3:1 D-E-M-I-L-L-E 40:19 daily 75:3 damage 73:17 damaged 11:19 13:3 71:9 date 7:2 24:12 27:18,21,23 93:14 96:4 dated 27:25 96:21 dates 40:8 Dave 86:6 DAVID 2:3 David.A.Camp...	2:6 day 1:17 19:18 96:21 97:20 deal 47:1 86:18 86:19 dealer 6:17,17 debt 19:12 debts 25:16 decent 89:20 decision 11:21 declaration 56:15,19 57:11 defaulted 81:18 defective 78:12 79:1 defendant 19:11 20:5,8 Defendants 1:8 2:8 defense 23:3,8 delay 20:1,3 delivery 7:21 18:5 29:15,16 29:21 91:16 demand 36:8 DeMille 40:16,17 40:20,25 43:8 44:18 45:3 46:9 46:14,16,25 50:15 51:16 52:14,15 53:16 54:23 55:9,20 56:2 75:8 78:15 80:5 81:16 82:20 87:18 DeMille's 52:17 54:1 56:15 57:10 denied 64:7,7 denying 91:9 92:17,25 93:2,6 depend 13:5 depended 59:25 depending 11:24 63:17 depends 14:17	deponent 96:5 deposition 1:12 1:14 2:17 3:19 19:17,25 27:3 56:11 67:3 96:4 97:4,13 depositions 88:16 detailing 61:21 determination 42:13,19,21 determine 16:8 73:10 88:14 different 79:20 direct 18:2 60:3 65:1 direction 97:13 disagree 37:18 52:3 57:22 disassemble 6:11 disclose 24:22 disclosed 23:18 24:7 disclosure 18:15 18:25 discovery 55:16 discretion 59:19 discussed 43:7 discussion 45:2 47:24 87:9 95:6 discussions 47:4 51:15 52:14 54:9 dispute 23:19 25:17 48:2 49:21 50:12 52:1,4,6 60:20 60:22 64:14 68:24 69:2 71:24 72:10,16 72:18,20,23 disputed 69:10 disputes 17:3 18:12 25:19 55:15 65:2 disputing 62:5 64:2,12,22 80:9
---	--	---	---	--

DISTRICT 1:1,1	6:1,3 7:1,13 8:5	79:2 80:4	excess 42:24	49:10,24 50:3
DIVISION 1:2	8:8,12,21 10:11	easier 3:25 32:22	52:18 62:12	50:16 51:4,16
document 28:6	11:1,3 12:6,13	East 2:5	63:12 77:11	52:4,7 84:11
33:21 34:17	12:24 13:6,8,16	eastern 1:2,19	84:5 85:18	85:7
38:18 92:18	13:23 14:3,16	86:5	executed 7:11	fees 36:12
documentation	14:22 15:8 17:2	Ed 86:20	38:6	figure 79:13 87:1
61:13,21 63:25	17:6,15 18:12	either 25:19	executing 29:21	87:2
64:4,5 65:20	18:19 21:7,9,11	73:18	execution 29:17	filed 56:16 68:2
69:6,8,11 73:20	23:4,11,18,25	electronic 94:16	38:13	68:10
73:25 74:3,6,9	24:7,14,22 25:7	94:16	exhibit 26:25	Filing 97:17
74:23 75:16	25:11,14,16,25	electronically	27:2,3,7 38:3	filled 29:9
76:2,23 78:12	26:5 28:2,11,16	94:11	56:9,10,11	final 32:20 34:2
78:13,25 79:6	28:19 29:16,20	employ 36:13	68:17,18	34:22 37:7
79:20 80:8	30:9,13 34:5	employee 5:12,19	Exhibits 2:21	42:19,21 46:6,8
81:14,17 83:8	37:18,20 38:11	16:14,16,21	expect 71:17	54:25 58:8
94:20	38:12 39:1	22:5	expenses 85:25	94:20
documented	40:20 41:1 46:5	employees 5:15	explain 9:4 10:4	finally 50:23
77:14	47:1 48:12,16	5:18 14:14,16	30:10 39:22	57:24
documents 28:19	50:22 51:13	21:25 22:3	explaining 65:17	finance 36:11
64:11,11 69:18	54:11,13,15	23:13 30:13	explanation 4:23	finances 51:5,9
76:14 91:6	55:12 57:13,19	39:16 40:3	expressly 35:17	financially 50:23
94:22	58:11,22 60:1	48:14 70:15	extension 35:23	84:14
doing 3:24 4:4	60:20,21 61:20	81:11 82:8	extra 14:8	find 69:24,25
7:1 10:6 16:24	62:4 63:24 64:4	85:19		71:19
21:13 25:4 28:3	64:12,20 65:7	ended 55:5 90:2	F	fine 94:11,12,15
45:23 46:11	65:24 68:10,13	entire 81:21,22	facilities 6:16	94:17 95:12
54:9 72:23	69:3,7,14 71:3	entities 14:11	facility 31:13	finish 58:20,21
90:17	71:24 72:2,7,7	18:7 88:8,19	fact 24:1 74:25	finished 8:20,24
dollar 53:15 61:4	72:10 73:9,13	entity 17:14	failed 6:10 73:15	9:1 62:21 63:6
dollars 26:22	73:22 74:3,3,6	23:24	73:16 74:8,21	63:13,24
62:13 75:14,17	74:20,21 76:1	equal 63:19	75:1,12	firm 36:14
77:12	76:12,13,14,22	Escort 10:14	fails 36:3	first 3:4,23 11:17
Don 32:14 86:18	79:23 82:4	11:7 12:3	failure 50:2	11:25 16:11
Donohoe-Tech...	83:20 84:12	Especially 4:5	73:21 78:20	25:5 27:6 28:10
2:14	90:7 91:9 93:3	et 1:7 78:23 96:3	fair 8:22 40:11	28:25 29:2,5
double-checked	93:7,12	event 36:2,12	40:24 41:8 42:7	48:6,8 57:5
45:9	Dynotec's 6:4	exact 5:17 40:8	42:25 52:20	61:9 76:16 78:3
drew 70:11	23:3 38:8 60:25	68:6 77:17	67:11,12 83:7	97:9
Drive 3:16	61:10 65:3 67:8	93:14	fairly 54:10	five 17:2 93:24
drop 45:20	70:21 87:24	exactly 20:17	far 9:14 29:19	flows 14:11
due 36:3 51:4		45:16 48:21	44:11 64:16	follow 55:9
57:15 58:1	E	Examination	faulty 61:2 76:18	follow-up 86:10
61:14	E 3:1,1 96:1,1	2:19 3:7	83:11,19 90:23	88:12
duly 3:4 97:7,9	e-mail 20:12,25	examined 3:5	federal 22:5,6,15	following 96:7
dumb 63:3	66:11,11	example 11:7	22:21 23:5,12	follows 3:5
Dynotec 5:10,11	early 6:22 77:17	48:12,15 80:21	26:3 48:13 49:8	Ford 10:13 11:6

foregoing 96:6 foreman 11:24 17:1 forgave 44:20 format 94:12 formatting 94:17 forward 20:6 24:11 25:3 45:5 45:22 47:4 found 37:21 frame 82:15 front 82:19 full 11:20 36:8 42:14 65:12 funds 23:16 further 66:24 future 24:11 46:19	41:15 65:24 81:17 go 10:18,25 17:19 17:23 18:17 19:16,24 20:6 22:10 24:4,17 25:22 26:8,13 27:6 28:22,23 28:24 29:2 30:4 30:21 31:19,24 32:20 33:2,15 34:18,25 35:9 36:17,25 37:10 37:25 41:18 42:10,17 45:13 45:25 46:22 48:19 49:13 50:6 51:7 55:3 56:9,22 62:1,16 65:2 66:24 67:2 67:19,21 68:16 72:14 75:20 79:9 83:3,13 84:7,16 85:11 85:23 91:18 92:14 goes 9:15 64:16 going 7:4,6 10:15 10:18,21 13:21 19:1,15,16,18 19:24 20:4,6 25:19 32:5 35:7 35:9 39:21 40:15 55:6 66:8 66:10,18,24 67:6 75:23 81:20 82:9 83:24 87:6 94:6 95:16 good 35:7 67:23 89:25 94:1 government 22:7 22:22 23:5,12 49:7 50:3,3 51:4,17 52:5,7 52:8 84:12 85:8	granted 42:6 green 57:20,22 group 77:23,24 groups 74:14 grow 38:7,9 growth 38:10 guarantee 37:6 guaranteed 19:12 37:22 93:3 guess 14:10 32:4 44:19 46:10 48:10 50:10,12 50:20 51:13 52:1 54:10,23 56:17 70:2 81:9 82:14 83:10,18 84:23 85:1 86:14 88:12 89:16,17,23 92:3,8,10 93:11 guys 20:1,2 43:13 43:17 46:10 47:14 55:2 93:25	held 21:4 47:19 66:20 86:7 94:2 help 83:25 helping 94:23 hereto 97:15 hey 10:11 45:20 54:17 64:1,22 75:1 high 9:14 10:3 70:4 92:11 hold 14:18 35:18 home 31:3,5 honest 9:16 honestly 12:21 hopefully 21:1 Hopkins 82:19 86:19 hours 81:19	information 18:16 19:1,9 20:7,20 23:7 30:24 31:25 informing 64:13 64:13 74:3 inspection 60:5 installation 73:17 installer 91:2 instruct 19:1 instructions 3:22 interest 36:11 interested 47:1 78:16 97:15 internals 6:11 investigation 95:8 invoice 59:22 76:16 invoices 74:12,14 77:19 78:21 90:20 involved 16:4,5 17:6,10 18:12 18:20 74:15 IRS 18:13,22 19:19 21:7,9 22:3,21 23:18 25:5 48:1 66:24 67:10 issue 21:8,17 22:13,18 24:1,2 24:22 25:6 42:24 43:3 50:1 54:24 57:5 60:25 66:13 67:15 71:9 80:3 80:18 82:25 issued 60:6 65:13 issues 59:13 66:14 76:3,6 item 72:25 items 64:25
<hr/> <p style="text-align: center;">G</p> <hr/> G 3:1 96:1,1 games 20:2 gather 83:8 general 6:16 9:18 12:16 16:14 generally 9:24 16:22 gentlemen 87:10 getting 11:6 12:11 20:2 39:12,13,14 63:1 74:19 give 3:22 4:8,19 9:16 32:3 59:5 59:7 61:20 63:25 69:11 73:20 78:8,14 79:6 81:20 84:4 87:24 88:7 89:17 93:24 given 3:21 48:1 69:3 75:3,5 85:2 92:2 93:8 94:21 97:13 gives 65:7 69:7 giving 12:7 23:24		<hr/> <p style="text-align: center;">H</p> <hr/> half 47:7 hand 8:5,8 78:11 78:19 97:19 handed 77:8,21 78:5,24 handing 81:16 handle 12:20 60:2 65:1 handled 12:25 30:2 handling 14:19 happened 80:1 hard 44:10 88:10 harmless 35:18 Hawthorne 96:24 hear 41:11 47:12 heard 47:11 77:25 82:13	<hr/> <p style="text-align: center;">I</p> <hr/> idea 15:24 44:15 identification 27:4 56:12 impact 5:4 importantly 76:3 in-person 44:1,3 included 38:19 Including 36:11 income 12:24 13:9 22:15,15 23:4,11 48:13 49:9,19,22 50:2 50:16 51:18 85:8 incorrect 61:16 incurred 80:2 indemnify 35:18 independent 22:1 individual 19:11 20:5,8 69:9 Industries 1:4 5:10 35:19 96:3 industry 28:15 91:12 info 66:12 informal 25:18	<hr/> <p style="text-align: center;">J</p> <hr/>

J-O-D-Y 5:22	knew 39:25 76:7	82:6 83:1	84:4 91:10,14	94:19 96:3,5,18
James 86:19	86:24 87:5,6	largest 87:24	96:8	97:4
Jim 86:18	know 5:16 7:18	88:4	listed 61:3 64:1	
Jody 5:22	9:13,15,25 10:6	Laurie 1:14	litigation 17:7,8	M
Jordan 3:16	11:23,24 12:19	66:16 96:24	17:10,11,12	magistrate 66:7
32:12	12:22,25 15:11	97:22	18:20 23:19	66:13,22
judge 47:11 66:8	15:19 18:8	lawsuit 33:25	25:15	Magna 1:23
66:13,22	20:15 21:15,16	48:7	little 5:7 16:5	maintain 33:20
July 6:22 55:19	22:17 23:2	lawyer 63:3	27:17,20 35:3	majority 89:5
73:5	26:15 29:23	lay 79:23	43:4 44:20	making 42:13,18
jump 20:23,25	33:10,22,23	Leading 22:9	52:18,24 53:3,6	50:21,24 72:8
June 55:17 62:8	34:1 37:18	lease 31:12,14,15	56:22 79:16	75:10
	38:11,12,15,16	31:16,17	LLC 1:4 96:3	man 81:19
K	39:15,16,20	leasing 31:11	LLP 2:4,10	management
Kampman 2:9	40:3,17 42:3	ledger 2:22 73:2	loan 25:25 26:2	11:22
18:14,24 19:5,8	44:7,10,22,24	73:3,5,10	loans 26:5,11	manager 5:24
19:13,20 20:9	45:1,15 47:12	left 27:20	local 49:7,18	11:23 16:22
20:19 21:3 22:8	50:25 51:23	Legal 1:23	location 30:8	manufacturer
23:6 24:3,16	53:12,14,19	let's 8:13 10:4,5	long 6:25 66:17	74:25
25:21 26:7,12	54:24 56:3 57:5	19:22 28:22,24	70:8 94:16	March 1:17 28:3
33:14 34:16	57:23 60:14	30:4,21 31:7,19	longer 86:4	96:4 97:4,20
36:16,24 37:9	61:3,8,12,15,15	31:24 32:19	look 9:16 12:6	marked 27:4
37:24 41:17	61:16 62:25	33:2 40:14	15:11 40:9	29:5,9 56:12
42:9,16 45:12	63:18 64:15,20	46:17 47:9 56:8	47:10 56:8 57:1	math 62:18,24
45:24 46:21	65:1,4,5,6 69:7	56:9,22 58:21	57:4 64:10 67:6	matter 62:3
47:15,18 48:18	69:23 70:7,7,7	59:16 67:25	74:1,14 90:6	max 30:17
49:12 50:5 51:6	70:9,11 71:19	68:16 71:20	looked 26:15	max/min 91:20
62:15 64:18	73:7 74:15	86:2 87:23	looking 15:5	Meagan 2:14
67:12 69:17	75:25 76:7,9	93:22	16:12 18:8,22	27:1,7,16 28:23
72:13 75:19	77:17 80:24	letter 48:7,9	24:10 28:13	30:22 31:8,20
79:8 81:23 83:2	84:8,17,18,25	55:17,23 80:15	57:24 68:17	32:20 34:22
83:12 84:6,15	85:1,25 86:1	82:24	83:4 84:12	38:3 56:10 57:1
85:10,22 86:6	87:5,14 89:5,15	letters 51:19	85:18 88:9,15	68:19
91:17 92:13	90:25 91:5 92:5	letting 91:14	looks 40:7	mean 9:15,19
94:1,6,14,15	93:7,14 94:5	92:11	lot 3:25 10:1	14:17 16:13
95:12,16	knowledge 21:13	Lewis 2:4	20:14 21:1 62:8	21:23 34:19
keep 13:4 20:3	known 97:4	liabilities 21:12	low 9:14 54:12	42:7,23 46:10
23:16,22 76:14		21:19,22 23:22	lunch 43:17	48:11 49:8 50:7
86:25 87:2 95:8	L	66:25	Lundquist 1:7,13	55:2,5 58:21
keeping 76:10	L-U-N-D-Q-U-...	liability 18:23	2:17 3:3,10,12	59:9,16 62:4,5
kept 12:15,16,17	3:14	24:15 26:3	3:13 5:22 6:7	62:6,11 63:3
76:9	labor 58:8,9 60:6	66:14 95:7	21:6 23:10 27:3	64:6,8 70:14
kind 39:11 91:12	60:13 64:7 74:1	limited 55:13,13	27:11,23 29:7	80:9,19 84:19
94:8	74:4 75:13,14	line 8:16 32:22	33:3 35:9,14	85:17 86:15,17
Kjelden 1:15	75:17 78:22	57:8,15 64:25	56:11 67:1,7,21	87:14 88:25
96:24 97:22	79:21 81:9 82:1	70:11 72:25	68:1 74:19 86:9	89:20

Meaning 54:13 meant 91:23 medication 5:3 meeting 43:14,18 44:1,4 82:21 meetings 39:3 43:10 44:3 mentioned 55:16 Metzger 2:10 miles 59:1 81:2 million 22:19 24:2 26:21 62:13,19 63:22 75:14,17 77:12 85:18 mine 3:22 Minnesota 1:16 3:16 10:9 14:23 14:24 49:18 96:25 97:1,7 Minnesota-bas... 15:4 minute 24:8 minutes 21:2 25:2 66:18 93:24 moment 15:15,16 18:8 34:21 41:24 45:15 65:4 momentarily 67:24 money 12:11 13:12,20 14:11 20:3 61:14 85:9 85:16 monies 13:21 monthly 88:21 months 53:10,14 59:1,13 62:6 move 24:11 27:19 29:20 31:7 47:3 moved 25:3 moving 45:5,22 multiple 17:25	73:23 74:15 88:20 multiples 89:7 mute 66:3 <hr/> N <hr/> N 3:1 96:1 name 3:11 5:21 16:12 18:1 NAPA 32:8,9,12 nationwide 14:23 15:1 necessarily 84:25 necessary 36:12 need 4:11,12,13 4:18,20,23,24 9:7,9 10:12 14:2,4 17:20 32:21 47:10 66:9 67:22 70:10,13 73:18 needed 7:24 17:17 needs 72:25 negotiating 50:14 negotiations 47:23 74:18 neither 49:15 network 6:17 never 12:10,11 46:6 77:7,7,25 81:14 84:9,20 86:23 new 6:17 30:18 54:14 Nick 32:9 nodding 4:6 non-cash 29:20 normal 54:10 79:4 82:7 86:1 94:11,12,17 North 96:25 NORTHERN 1:1 notary 1:15 96:20 97:6 notice 1:13 48:2	48:6,8 69:3 97:17 notification 65:8 notify 24:14 number 10:16 14:5 27:4 48:16 56:12 57:20,22 58:8 60:8,11,15 61:7,8,17 62:3 62:5 70:12 71:21 72:3 75:7 77:17 89:15 numbers 15:6,19 32:25 60:17 70:10 88:9 <hr/> O <hr/> O 3:1 Oaks 96:25 oath 97:8 Objection 18:14 18:24 22:8 23:6 24:3,16 25:21 26:7,12 33:14 34:16 36:16,24 37:9,24 41:17 42:9,16 45:12 45:24 46:21 48:18 49:12 50:5 51:6 62:15 72:13 75:19 79:8 83:2,12 84:6,15 85:10 85:22 91:17 92:13 obligations 11:14 obviously 9:7 14:17 59:9 87:4 occur 62:7 occurred 84:18 office 5:24 31:12 officers 30:25 offset 73:13,14 Ohio 1:1 2:6,11 okay 3:10,18,21 4:9,10,14,15,21	4:22 5:1,3,18 6:3,6,13,18,25 7:19,23 8:18 9:4,11 10:9,24 11:6 13:6,14,20 14:14,14,21,25 15:7,7,23 16:6 16:24 18:4,10 18:22 19:14,21 20:9,11,22,22 21:3,11 22:13 22:24 23:1,24 24:20 26:24 27:5,9 28:8,17 28:21 29:13,16 29:20,25 30:4,5 30:18,20 31:3,6 31:6,17 32:3,8 32:19 33:7,9,20 33:23 34:2,8,13 35:1,17 37:17 38:10,16 39:3,6 40:6,13 41:10 42:4,21 43:22 43:24 44:6,18 45:8,18 47:3,9 47:17,21 48:10 48:24 49:18,21 50:20 51:1,3,11 51:21 52:1,10 53:3,5,16,20,23 54:7,17 55:9,15 55:25 56:4,6,6 56:14,21 57:10 57:14,15 58:23 58:24 59:2,11 59:21 60:8,25 62:4 63:21 64:19 65:5,16 65:17 68:8,12 68:15,15 69:6 69:14,20,25 71:5,12,20,20 72:5,10 73:13 73:20 75:10 76:22 77:2,10	77:14,22 78:5 78:10,24 79:3 79:19 80:6 81:3 81:14 86:2,5,22 87:2,18,22,22 88:12 89:9,11 89:17,19,23 90:6,14 91:4,4 92:8,17 93:5,16 93:21 95:4 okayed 39:21 old 73:4 one-offs 89:1,4,7 ones 14:4 70:15 ongoing 54:8 74:11 online 4:5 open 54:17 59:9 91:11,13,21,23 92:4,6,11,20 95:9 operating 85:25 opportunity 4:20 orange 58:2 order 7:24 11:15 62:24 76:5 80:2 94:3,5,24 orders 67:5 ordinary 28:18 64:20 65:7 74:7 77:15 Orzetti 86:20 outcome 97:16 outstanding 26:3 overhauled 73:19 owe 75:2 owed 37:19,21,23 40:22 41:2 43:25 44:8 45:23 46:18,18 48:16 51:13 52:6,23 54:20 55:21 57:16 65:21 67:8,9 69:4 84:13 85:4 87:19 90:19
---	--	---	--	---

93:3 owes 82:6 owing 49:22 owner 59:12 68:12	84:14 91:15,24 payable 5:25 paychecks 22:5 paying 25:11 38:12 84:5,11 84:20 payment 13:24 50:21 51:17,20 93:13 payments 6:24 32:6 48:22 49:1 49:4 50:24 60:13 78:22 84:19 payroll 21:19,22 21:24 22:20 25:6,11 50:25 85:25 penalties 22:14 22:24 23:1 67:9 people 74:15 79:12 percent 15:5 89:18 percentage 15:3 89:14 performed 73:22 74:4 75:2 76:4 personal 20:7,18 33:11 66:14,24 95:7 personally 18:23 19:11 37:5,22 44:22 50:13,15 51:12 67:7 68:2 93:2 petition 21:12,13 phone 32:24 38:22,24 39:3 39:17,24 43:9 43:16,20,21,22 44:6,7 48:3 54:22 55:1,22 79:11 pick 10:13 piece 8:18,19	Plaintiff 1:5 2:2 plans 24:14 plant 78:4 play 20:1 please 3:10 8:7 96:23 point 4:11 7:14 7:15 12:19 21:15 24:10,18 34:2,23 38:6 46:19 49:1,4 54:16 56:3 67:15 86:23 87:8 88:6 points 56:6 86:10 portion 15:2 83:10 position 5:23 14:17 16:20 52:17 54:2 60:11 61:11 65:3 71:6,7 possibly 63:19 post 67:2 PPP 25:25 26:2,5 26:11 practice 79:4 predecessors 37:3 prefer 4:16 PRESENT 2:13 presented 54:24 president 31:1 presumably 17:17 49:10 81:22 91:1 pretty 89:25 previous 36:22 price 10:2,18 pricing 9:14 primary 6:13,14 principal 34:4,24 35:11 37:5 principals 36:7 print 27:8 prior 25:9 28:3	29:17 30:10 32:17 43:15 48:3 50:14 51:15,24 55:22 87:22 private 18:15,25 19:8 20:7,19 privileged 23:7 probably 30:16 33:10 60:21 62:14 66:16 71:25 92:8 94:4 problem 24:11 81:1 86:25 problems 10:8 39:9 40:1 61:6 74:13 77:18 87:16 90:2 proceeding 21:7 21:9 process 6:7 33:5 64:6 69:23 71:14 produced 41:20 76:20 94:25 product 6:12 8:16 9:1,3,8,9 11:19 13:23 53:25 54:14,16 62:21 63:6,13 74:20,21 75:1 76:15,18,25 78:13 79:1,21 79:25 83:19,21 91:25 production 38:18 94:21 products 8:9,12 8:20,24 41:5 43:4 52:17 54:18 57:12 58:10 63:24 70:21 82:2 88:8 88:17 93:17 projection 15:20 promise 82:15,22	82:25 promises 82:21 properly 44:23 proposal 46:9 proposing 53:21 protective 67:5 prove 62:1 provide 74:23 provided 77:3 81:23 public 1:15 96:20 97:6 pull 38:2 56:25 purchase 7:14 8:5,9,13,20 9:24 11:1 31:14 55:10 63:23 72:11,24 84:2 89:10 purchased 8:24 13:18,23 41:5 57:12 60:19,22 62:9 73:16 76:16 79:25 88:8,20 89:6 purchases 43:4 52:16 53:25 54:10,11 57:25 62:12 63:22 71:20 72:1,7,8 89:21 90:7,22 93:17 purchasing 13:14 57:17 87:16 pursuant 1:13 put 10:25 11:1 26:25 27:1 45:19 56:10 61:25 62:3 65:19 66:3 75:13 81:19 89:15 94:23 95:3 putting 65:18 70:16
---	---	---	--	---

Q	receipts 57:25 receivable 5:25 received 62:2 receiving 55:17 recess 21:4 47:19 66:20 86:7 94:2 recognize 27:11 recollection 28:2 33:11 48:10 49:5,25 86:17 record 3:11,13 4:21 18:11 66:9 68:23 71:12 90:21 97:13 recorded 39:4,7 39:24 43:23 44:7,13 97:12 recording 39:16 40:4 recordings 38:19 38:22,24,25 41:10 recovered 50:23 referenced 43:13 references 32:4 refuses 36:3 regardless 61:25 63:21 93:7 regards 39:25 regular 89:2 reject 13:2,7 rejected 65:9 69:21 70:6 related 97:15 relationship 8:3 8:19 13:21 14:12 24:23 32:15 75:6 77:5 79:7 relationships 7:10 relative 97:10 relevance 20:21 remain 67:16 remainder 53:24 remanufactured	7:25 9:21 10:12 13:15 14:3,5 17:18 55:11 57:18 58:15,22 70:16 88:20 89:3,10 90:1,22 remanufacturi... 6:5,8 remember 7:2 25:8,10 28:13 29:19 34:6 37:16 43:2 44:10 47:24 48:4,9,20 53:1 53:15 55:6 88:11,22,23 renew 6:11 renewed 6:12 9:8 repair 6:16 10:7 80:2 repeat 4:24 88:4 replacement 73:19 76:24 81:3 replaces 36:21 replacing 11:7 replenish 13:11 reported 91:1 reporter 4:1 94:8 94:13 97:23 reports 78:20 repurchase 13:13 required 91:15 resolution 39:10 39:11 74:13 79:13 86:23 respect 25:6 38:10 39:1 43:25 response 65:23 71:18 responses 55:16 responsibilities 34:15 responsible 67:8 restaurant 43:14	return 10:2 11:3 11:4 13:4 45:4 45:21 46:18 54:4 65:19 70:24 71:2 96:23 returned 9:3 10:1 16:9 41:7 58:5 60:5 61:16 61:20 69:21 71:7,8,11 returning 64:3 returns 21:18 61:16 revenue 15:8,14 15:25 review 16:21 17:1 56:15 61:12 94:21 reviewed 72:25 92:18 reviewing 16:7 71:15 73:9 87:19 95:2 Rick 77:19,23 86:20 right 8:6,10 10:16 12:2 13:25 14:6 15:10,19 17:21 22:19 24:12 26:15 27:19 35:7,13,21,25 36:5,9,15,23 37:8 38:22 40:22 41:16 42:15 43:11 44:1 45:11 47:6 48:9 49:11 53:7 55:18 58:6 59:3 59:8 60:14,23 61:4 62:9,13 65:21 66:10 70:18,22,25 72:1,2,8 73:6 74:4 75:24	77:12 79:1 81:9 82:4,5 85:5 88:2 89:21,22 90:3,23 91:25 92:9,12,23 93:9 95:15 rights 67:2 Robinson 32:14 86:18 role 17:14,24 room 43:15 78:16 rounds 26:5 run 84:4 runaround 74:16 running 23:17,23
R	R 3:1 96:1 raise 66:13 raised 25:5 50:1 Ramsey 1:16 97:2,7 ran 50:25 range 53:2 rate 55:13 Raybestos 18:3 reach 54:19 reached 46:5 66:23 read 33:4,7,9 34:7,20 35:21 35:25 36:5,9,15 36:23 37:7 94:5 94:7 95:14,17 96:6 reading 34:3,6 37:13 97:17 ready 46:7 Real 65:17 realize 19:10 really 8:15 42:4 70:10 reason 96:7 rebuild 8:17 rebuilding 9:6 14:20 recall 21:10 30:16 34:3 37:13,15 38:20 44:5,18 55:24 55:25 68:6 receipt 91:24			S S 3:1 96:1 salary 5:12 sales 14:19 15:18 15:21 57:6 90:12 salesperson 32:16 salvage 6:16 sand 70:12 saw 38:17,18 saying 19:7 20:18 30:1 46:15 52:15 53:23 54:17,23 65:20 73:9 81:8 82:24 84:1,14 85:19 90:15 says 30:7 34:23 35:17 57:6 Scott 82:18 86:19 screen 4:7 27:19 seal 96:20 97:19 second 19:18,25 66:2,4 Secondly 4:4 section 28:25 29:2 30:5,22 31:8 32:20,24

34:25 sections 31:21 see 4:7 20:13 26:24 27:18,20 27:23 29:6 32:22 34:24 35:1 40:8 56:18 56:23 57:5,7,20 58:3 64:11 69:18 75:16 88:16 89:19 seeking 51:17 Seeks 18:14 sees 11:24 segregated 12:17 sell 6:12 10:16 58:17 59:2 seller 74:25 selling 9:20 17:15 70:20,20 sells 8:10 send 9:8 42:1 59:22 74:6 80:7 80:11,13,14,15 82:24 90:16 sending 51:19 74:2,12 76:1 sense 82:23 sensitive 18:15 18:25 19:9 20:20 sent 41:20 60:2,3 73:3 74:13 77:23 83:5 90:1 sentences 37:7 Services 1:23 set 67:21 settled 39:9 53:19 severe 73:17 shame 92:10 shareholder 34:4 34:24 shareholders 35:11 ship 15:1	shipping 11:23 14:18 16:22 shop 11:23 17:1 short 23:16 47:10 93:22 show 7:4 78:20 showed 76:16 showing 76:15,23 shows 82:1 shuffled 39:14 side 12:20 13:1 64:9 65:15 sides 70:11 sign 28:10,12,18 33:4 signature 27:9,12 27:14 32:22 34:3 signed 7:16 28:6 28:9 30:14 signing 33:9,17 97:17 similar 84:11 simple 6:7 8:4 63:2 65:17 simply 51:12 84:13 sitting 87:15 situation 59:25 69:13 six 62:6 79:7 skimmed 33:17 37:14 small 15:2 27:8 75:7 77:6,10,14 Smith 2:4 sold 58:11,11,22 59:10 sole 68:12 solve 23:22 24:9 79:12 solved 24:12 25:3 somebody 9:4 12:23 82:14 sorry 40:23 sort 11:19	sound 41:13 sounded 41:12 42:4 Sounds 94:1 space 31:12 speak 4:13 5:1 55:20 56:1 speaks 34:17 specific 82:1 spell 3:13 spend 92:6 spoke 66:22 stack 81:21,23 stamp 46:7 start 7:10 9:7,10 50:21,22,24 51:21 55:10 58:20,21 started 30:7 51:22 77:18 79:15 81:1 87:12 starting 7:14 30:18 starts 35:10 state 1:16 3:10 4:20 49:7,10,19 49:20,21 50:3 50:16 52:7 97:1 97:7 statement 8:22 34:8,11 40:11 40:24 41:8 42:7 42:25 52:20 65:25 67:11,13 statements 87:20 STATES 1:1 stating 57:11 stenotype 97:12 stock 60:1 stopped 54:7 Street 2:5 strongest 14:24 stuff 15:1 subject 67:5 95:5 submitted 41:14	64:15 subsidiaries 35:20 37:4 substance 40:14 subtracted 65:14 successors 35:20 Suite 2:5,11 supercedes 36:21 Superior 2:10 supplier 32:11 54:18 58:1 79:24 80:15 84:3 suppliers 18:2 support 79:1 suppose 80:13 supposed 11:10 13:22 14:7 sure 3:21 33:16 35:4 44:25 45:1 94:4 surprised 41:11 surprisingly 70:4 sworn 3:2,4 97:9 <hr/> T <hr/> T 96:1 take 4:19 6:9 11:8 19:22 20:12,23 28:17 47:10,13 66:3,8 66:10 67:24 75:23 82:9 86:2 86:4 88:16 90:8 93:22 taken 1:13,14 17:14,23 39:11 64:8 83:24 talk 4:12,18 24:20 40:14 55:6 67:25 71:21 talked 71:23 talking 53:14 73:24 74:17 tape 39:4,7,16	40:4 tax 18:12,20,23 21:11,14,18,19 21:22 22:14,15 22:15 23:4,22 24:15 26:3 48:2 48:22 49:1,21 66:14 95:7 taxes 21:24 22:5 22:20 23:11 25:6,11 48:13 49:9,19,22 50:2 50:16 51:18 85:8 taxing 51:14 TECHNICIAN 35:2 47:9 tell 6:3,6,6 15:17 18:9 46:25 64:25 83:22 88:3,9,24 90:7 94:25 telling 19:3 Tennessee 78:4 terms 6:7 8:4 63:2 64:19 70:3 91:20,20 test 6:11 testified 3:5 testify 5:4 97:10 testifying 97:9 testimony 96:6 97:11,13 testing 14:19 Thanks 20:14 21:1 68:19 86:6 theory 71:4,5 thereof 97:7 thing 20:3 25:2 things 33:4 62:7 91:7 think 4:17 5:17 7:3 19:14 22:19 23:25 30:13 35:6 40:13 41:4 41:23 43:6,13
--	--	--	--	--

44:12,24 45:8 49:3,14 51:22 53:6 55:19 62:18,21 63:5 66:1,16 68:6 71:22 72:5 73:1 73:8 78:2,2 79:3 80:14,25 82:20 83:7 86:3 86:20 87:13 92:1 93:22 third 25:20 third-party 36:14 thousands 88:10 three 30:16 44:15 81:1 87:25 throw 48:15 Tim 1:7,13 2:17 3:3 18:17 22:10 24:4,17 25:22 26:13 33:15 34:18 36:17,25 37:10,25 41:18 42:10,17 45:13 45:25 46:22 48:19 49:13 50:6 51:7 62:16 72:14 75:20 79:9 83:13 84:7 84:16 85:11,23 91:18 92:14 95:14 96:3,5,18 97:4 time 19:25 21:4 23:23 25:5 30:14 31:1,4,11 32:1,11 34:6,9 35:15 38:6 40:13,23 41:4 43:1,5,8 46:3 47:19 52:10,13 52:19 54:1,8,9 54:13 66:20 80:24,25 82:13 84:18 86:7	93:11,12 94:2 timeline 7:18 times 10:1 73:23 timing 29:24 30:1 Timothy 2:4 3:12 Timothy.Chai... 2:7 title 16:20 today 5:15,17,18 6:1,15,19 16:24 17:1,23 25:12 33:25 34:11 51:1 67:15 71:12,13 89:5 95:9 told 25:14 83:23 Tom 40:17 75:8 78:15 80:5 82:20 86:15 top 22:24 23:1 29:1 31:21 57:8 87:25 torque 61:5 73:15 74:8 75:11 76:2,5,17 78:3 80:17,23 81:4 82:9 86:12 87:10,12 total 26:11 42:23 43:21,24 62:12 64:14 72:24 touch 93:23 tough 9:13 track 76:10 86:25 87:2 tracking 90:4 traction 77:7 transcribed 97:12 transcript 94:9 96:6 TransGo 18:3 transmission 6:10,10 8:5,17 9:6,21 10:6,13	10:19,25 11:4,8 11:13 12:2,3,14 13:17 14:20 17:15,18 59:3 59:12 60:1 61:17 63:4 73:18 91:2 transmissions 6:5,8 8:1 9:5 10:7 13:15 14:3 14:5 55:11 57:18 58:15,23 62:9 70:17 88:21 89:3,11 90:1,23 Transtar 1:4 6:18,25 7:1 8:3 8:6,9,19 13:14 13:24,25 14:2 17:7,12,19,20 24:23,24 28:3 29:10,11 32:14 32:16 35:18 36:4,8,13,22 37:21 39:1,15 39:15 40:3,21 40:22,25 41:2,2 41:6,15,21 43:4 44:19 45:11,20 46:5 52:2,4,8 52:10,16,23 53:13 54:11,14 54:15 55:10,21 56:1 57:12,16 57:17 58:1,9,11 58:12,18,23 59:2,21,23 60:23 61:21 63:25 64:13,21 65:18 69:3,7,8 69:21 70:8,15 70:20,22,24,25 71:2 72:1,2,8 73:4,16 74:2,6 74:8,24 75:9,13 75:15 77:4,15	77:19,24 78:8 78:21 79:12,22 80:7,25 82:5,8 82:19 84:13,21 85:2,4 88:1,5,5 88:18 89:12,13 89:24 90:6,9,11 90:15,19,21 91:10 92:10 93:8,13,17 96:3 Transtar's 17:14 58:6 59:19 60:10 64:9 65:15 75:23 tried 78:14 80:4 trip 78:3 triple 62:14 true 97:13 truth 97:10,10 truthful 40:5,6 truthfully 5:5 try 39:11 67:17 87:1,2 trying 23:16,22 24:9 25:3 35:4 39:8 54:19 61:6 74:12 78:19,20 79:12,13,13 two 14:11 26:9 30:8,9,12,16 31:8 39:7 41:4 41:6 43:9,21,22 44:7,13,15 46:20 52:15 54:4 type 8:12 58:25 65:8 69:8 types 28:19 typewriting 97:12 typical 9:11 15:7 15:9 33:5 typically 8:13 14:22 33:3 58:16	U U 96:1 ultimately 43:9 44:19 undersigned 34:23 35:10 36:2,7 understand 4:2 4:25 8:4 9:5 24:1 31:9 34:14 39:22 46:14 52:2 61:24 63:4 70:14 75:10,12 81:15 84:24 91:7,8 understanding 28:9 42:23 60:10 89:25 unfortunately 83:22 UNITED 1:1 unlimited 81:1 Unpaid 21:24 unresolved 65:2 Unsettled 6:24 user 59:8,11 utilize 7:24 V valid 25:17 41:14 value 9:25 11:20 vehicle 11:5 vendor 60:4 vendors 17:25 23:19 24:15,21 25:19 verbal 4:8 45:2 46:4 73:24 86:11,13,16 verbally 4:5 verified 61:18 70:10,13 verify 32:5 33:2 52:13 57:23 60:16 verifying 60:15
---	--	--	---	---

versa 14:2	84:20 86:17	50:7 51:8 62:17	51:22 68:6 78:1	18 59:1,13 80:4
vice 14:2	91:12	72:15 75:21	81:1	18,000 59:1
Videoconference	ways 13:22	79:10 83:4,14	year's 15:20	1989 10:14
1:12	we'll 7:4 19:23	84:8,17 85:12	years 15:18	<hr/> 2 <hr/>
view 58:6	20:13,16,23,25	85:24 91:19	16:18 17:2 21:8	2 2:22 27:6 56:10
viewed 92:4	21:1 28:24	92:15 97:9,12	30:8,10,12	56:12 68:18
views 91:12	47:12 66:12,15	97:13,17,19	39:10 50:4,17	20 5:17,18 48:17
virtue 97:7	66:16,18 67:14	word 75:24 77:25	51:24 61:5	96:21
visual 11:17	67:16,18,24	words 12:2	74:16 79:7,14	200,000 42:24
voice 38:19 41:10	86:3 87:1 93:25	work 5:9 10:4	90:10	52:24 53:3
vs 1:6 96:3	94:3,5 95:8	47:14 55:2	yellow 57:7	2000 68:7,8
<hr/> W <hr/>	we're 9:6 12:7	58:14,19 59:14	Yup 10:10 56:5	2007 7:3
W-2 5:13	18:2 19:15,24	59:18,20,21,24	63:16 92:24	2009 8:13 28:4
wages 5:13	20:6 35:7 57:24	67:16 73:21,22	<hr/> Z <hr/>	2013 21:10,17
wait 3:24 60:4	62:5,6 64:2	74:9,10 75:1	Z 17:20	22:15 23:11
waive 45:3 46:16	66:18,23 67:1	76:4,24 80:10	zero 54:12 65:12	48:11,12,21
52:12 53:17,23	85:17 93:22	81:11 82:1	69:12	49:3,15,25
68:25	94:6 95:16	85:20 86:11	Ziegler 2:10	50:17 51:21
waived 44:20	we've 20:4 66:23	90:11,17	Zoom 1:17 2:2,8	52:6
45:10 53:7,9,10	95:13	working 11:13	2:13	2014 49:25
97:18	week 50:25	32:17	<hr/> 0 <hr/>	2015 78:2,5,13
waiver 53:13	weekly 75:3 89:2	works 47:15,18	<hr/> 1 <hr/>	2016 87:23,25
waiving 67:1	went 70:8 74:16	worth 77:20		88:15,18 89:11
want 20:1 52:12	79:14	wrapped 93:23		2017 21:10,18
57:4 75:16	weren't 62:7	writing 29:12,13		22:16 23:12
81:21 86:9	87:16	45:19 57:1	1 2:22 27:2,4,7	50:18 52:6
88:15 91:6	wife 5:19 14:15	79:24 85:3	28:23,24	87:14 93:17,18
93:23 94:19	16:1,13 30:1	writings 65:3	1.5 22:19 24:2	2018 25:9 40:10
wanted 39:10,20	41:13 45:9 48:2	written 61:21	10 16:18 21:2	40:16,24 42:8
39:24 40:5,6	53:5 56:1 60:16	65:8,24 76:1	66:18	43:24 44:9 47:5
warranty 39:8	71:14	www.MagnaL...	10-minute 47:13	47:22 50:11,12
40:1 58:8,10,14	Wilemon 77:19	1:24	10-plus 14:12	50:13,22 51:16
58:18,25 59:6,7	82:20 86:19,20	<hr/> X <hr/>	10,000 92:6	51:24 52:11,13
59:10,14,18,24	willing 53:17	X 74:8 75:2	10:15 47:17,18	55:22 78:15
60:3,6 73:21	withheld 22:4	X-Y 17:20	10:44 95:18	82:16 87:13,18
74:1,4,22 75:13	withholdings	<hr/> Y <hr/>	100,000 44:21	2019 17:17 47:6
75:13,17 76:23	49:9		45:21 46:17	58:23
79:21 80:10,17	witness 3:2,4	Y 2:4	53:7,8,17,24	2020 6:22 8:14
80:20,22,22	18:19 22:11	yards 6:16	1000 2:11	17:17 47:6,7
81:6,9 85:20	24:5,18 25:23	Yeah 31:18 32:25	11:30 86:5	55:17,23 73:6
86:11 90:11,17	26:9,14 33:16	33:8 64:15 68:9	1111 2:10	93:15
wasn't 11:13	34:19 36:18	70:1 78:7 80:13	1375 2:5	2021 1:17 96:4
49:3 76:1	37:1,11 38:1	85:24 87:4	15 49:25	97:5,20
way 48:5,11	41:19 42:11,18	year 14:12 15:9	16 50:1	2250 2:5
50:13 61:24	45:14 46:1,23	25:7 48:25	17 50:1 96:4 97:4	25,000 48:16
	48:20 49:14		17th 1:17	

26 28:4 27 2:22 27,000 74:2 75:15 27,831.81 60:12 29th 97:20 <hr/> 3 <hr/> 3 2:20 3-26-2009 27:25 30 89:18 300,000 63:22 324 85:1 324,000 62:11,12 84:23 324,891.27 58:2 61:10 68:22 69:15 <hr/> 4 <hr/> 44114 2:6,11 <hr/> 5 <hr/> 5 66:18 96:24 55127 96:25 55352 3:17 56 2:22 <hr/> 6 <hr/> 7 <hr/> 70,000 77:20 78:8 78:25 700,000 43:5 52:18 84:5 728,000 72:3 728,465.65 60:20 71:22 73:10 83:9 <hr/> 8 <hr/> 8:00 1:18 80-plus 15:5 866-624-6221 1:24 875 3:16 <hr/> 9 <hr/>	9:00 1:19 9:23 20:24 900,000 79:5 9th 2:5			
---	--	--	--	--